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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, sovereign Lord of all, help our Senators to remember that they are here because of Your sovereign providence and are accountable to You for their work. Give them Your wisdom to wrestle with complex issues. Provide them with clarity in debate and courage of conviction as they vote. Lord, keep them from compromise that sacrifices principle, as You lead them in making just and compassionate decisions. Free them from judgmental categorizations that make them resistant to listening to people with whom they expect to differ. May Your grace guide their deliberations and Your blessings crown their efforts.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JON TESTER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 20, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JON TESTER, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. TESTER thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader time, there will be a period of morning business until noon, with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first half and the majority controlling the second. At 12 noon, the Senate will proceed to executive session to consider the following nominations: Michael McGinn, of Minnesota, to be U.S. Marshal for the District of Minnesota; Ralph E. Martinez, of Florida, to be a member of the Foreign Claims Settlement Commission of the United States; and G. Steven Agee, of Virginia, to be U.S. circuit judge for the Fourth Circuit.

The time from noon until 12:30 is equally divided and controlled between Senator LEAHY and Senator SPECTER. The Senate will recess from 12:30 until 2:15 p.m. for the weekly caucus luncheons. At 2:15, there will be 15 minutes for debate equally divided and controlled between Senators WARNER and WEBB or their designees. At 2:30, the Senate will proceed to a rollcall vote on the confirmation of the Agee nomination. Upon confirmation of the Agee nomination—and I am confident that will take place—the other two nominations will be confirmed by consent.

Following executive session, we expect to consider the House message accompanying H.R. 2642, the 2008 emer-

gency supplemental. As previously announced, the time from 11 a.m. until 12 noon tomorrow will be set aside for tributes to former President Lyndon B. Johnson on the centennial of his birth.

### TEMPORARY EXTENSION OF THE HIGHER EDUCATION ACT OF 1965

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3035.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3035) to temporarily extend the programs under the Higher Education Act of 1965.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The bill (S. 3035) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3035

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. EXTENSION OF HIGHER EDUCATION PROGRAMS.

(a) EXTENSION OF PROGRAMS.—Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking “May 31, 2008” and inserting “June 30, 2008”.

(b) RULE OF CONSTRUCTION.—Nothing in this section, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education

• This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Reconciliation Act of 2005 (Public Law 109-171), by the College Cost Reduction and Access Act (Public Law 110-84), or by the Ensuring Continued Access to Student Loans Act of 2008 (Public Law 110-227) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

#### SUPPLEMENTAL APPROPRIATIONS

Mr. REID. Mr. President, I just finished a meeting to try to lay out to a number of Senators what we are going to be doing on the supplemental appropriations bill. It is going to be extremely difficult for us to get from where we are today to completing this legislation in a timely fashion. There are some very complicated issues, some very strong feelings by a lot of different Senators.

As highly controversial as is this war and this war funding, we are going to have to work together; otherwise, we are going to walk away from here this week with nothing done. That, I assume, is one alternative. It is not one I think most want, but that is an alternative.

The other problem we have, because of longstanding commitments, including the wedding of one of our Members, is we are going to start losing Senators very quickly. Because of that, there are two Senators who are going to leave sometime Thursday. They will not be here. We have, of course, Presidentials out in the country someplace. We are going to have to try to figure out when they need to be here. Senator KENNEDY is still having tests run to determine when he can return.

So, to make a long story really short, we have a complicated path to completing our work, and we have to try to figure out a way to do the budget in this time period also.

So, Mr. President, I wish I could tell Members to just take it easy, everybody can leave, but I think what we are coming to is we are going to have to finish our work Thursday or this war funding bill will not be completed. That may not be the case; maybe we can work with less than 100 Senators trying to get it done, but it is not an easy chore. It is one that is necessary but difficult.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### DEFENSE SUPPLEMENTAL SPENDING

Mr. MCCONNELL. Mr. President, the supplemental spending request that was sent to Congress last year by the President was unambiguous: the funds were to be spent on forces in the field, on the men and women fighting in Afghanistan and Iraq, and on their families here at home.

Last week, the Democratic leadership of the House showed us what they

thought of that request. They took it up, hollowed it out, and filled the shell with a raft of unrelated domestic spending projects and policy proposals that did not include a dime for the troops in the field. House Democrats took a request meant for the troops and used it to fuel their own domestic spending habits. Then they sent this piece of legislation over to the Senate on the eve of Memorial Day and told us to vote for it. The Senate was being asked to vote not on troop funding but on two other amendments. One included unemployment benefits and a Medicaid proposal. The other sought to undermine the constitutional powers of the Commander in Chief by proposing a withdrawal date from Iraq.

Unfortunately, our Democratic friends in the Senate made it even worse. Taking up what they got from the House, they added even more unrelated policy proposals. In the name of combat readiness, Senate Democrats also sought to restrict the ability of our military commanders to deploy forces, ignoring the fact that the surest way to degrade troop readiness is to delay the delivery of funds that are used to prepare and train our forces in the first place.

Taken together, it seems the only issue unaddressed by the Democratic leadership in the House and Senate is the only one that matters: how and when we will fund our forces in the field.

The bottom line is this: Tasked with the responsibility of funding our forces in the field, Democrats in the House and Senate neglected that task in favor of domestic spending and freelance policy proposals that we know in the end will not be signed into law—this despite the fact that the House will soon take up the Defense authorization bill, which is ordinarily the vehicle for the kind of policy proposals our friends on the other side have included in the supplemental spending request. The House has failed in its basic responsibility. It is my hope the Senate will do better.

While some of our friends on the other side seem to be counting on the fact that most Americans are distracted by the ongoing Presidential contest, the families and friends of U.S. soldiers and marines who are fighting overseas are, indeed, paying attention.

The President sent a request to fund these men and women. As long as they remain in harm's way, we have a strict obligation to give them what they need. On this point, there really should not even be a debate. The Senate must pass a bill funding our troops free of restrictions on their ability to win and free of spending unrelated to their mission. And we must try to do it by Memorial Day. In less than a month, the Defense Department will be unable to make payroll for our uniformed Army unless Congress approves the President's supplemental spending request. Less than a month after that, funds for operations and maintenance will also run dry. It may be convenient for those

focused on the political calendar to ignore these pressing needs, but ignoring them really does not make them go away.

I hope the Senate will do its duty this week. The majority leader just indicated it is challenging. Of course, it is always challenging to do that. But we need to do our duty this week. Our forces in Baghdad and Ramadi will not be taking a week off for a recess.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I say respectfully to my friend that the logic of his statement is really without foundation. Keep in mind, the complaint he has is the House sent us a bill that did not have war funding in it. Bingo. Why? Because 132 Republicans walked out—did not vote. One hundred thirty-two Republicans in the House did not vote for war funding. Don't blame it on the Democrats. Had 132 Republicans voted, there would have been war funding. But they decided not to vote.

So don't blame the House for sending us only conditional aspects of the war and sending us some other things, like the GI bill of rights. We have funded this war on borrowed money, spending \$5,000 a second on this war—borrowed money. The House made a decision. They said: Well, don't you think it is a good idea we spend some money on the troops coming home, as we did in World War II, so they can get an education? This bill, written by JIM WEBB, was adopted by the House overwhelmingly. And they did something else: It is paid for, not like the war. The war is not paid for. The GI bill of rights is paid for, as we have it.

So, Mr. President, I know we have a difficult road ahead of us because we do not have war funding in this bill because the Republicans in the House did not vote for it. Don't blame it on the House Democrats. There were enough of them to get a majority to do it. The Republicans walked out.

But I say, Mr. President, is it any wonder that the House Republicans have lost three special elections in districts that are overwhelmingly Republican? In Illinois, the former Speaker of the House, Dennis Hastert's district—they lost that. They lost a seat in a special election in Louisiana that was a slam dunk Republican district. And then in Mississippi, they lost one. Is it any wonder when they do tricks like this: "Democrats didn't fund the war"? "Well, don't check too closely because 132 of us just walked out and didn't vote."

So I am here, Mr. President. We are going to go to this bill this afternoon. I spoke briefly to the distinguished Republican leader yesterday. We are going to have to try to figure out some way to work together to get votes. At the end of the day, we will see what happens. In the past, war funding has been—after a lot of arm-twisting and cajoling, there have been enough votes

to get that. I don't know if the votes are here this time, but we certainly recognize that we have an issue, and we are going to do the best we can with my friend, the distinguished senior Senator from Kentucky, to see what we can do to get to a point where we have this war funding over with until sometime next June. If we can't get it done, then we are going to have to worry about what we do in the next month, as he said, but hopefully we can complete it this week.

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. McCONNELL. Mr. President, one additional word. The process for doing this has been offensive, I know, both in the House and in the Senate. It is my understanding that what will happen later this week is the tree will be filled and cloture will be filed. If any amendments are allowed on the floor of the Senate, it will be because my good friend, the majority leader, decided to let us have a vote. The whole process is one that doesn't immediately engender a great level of cooperation.

Having said that, the underlying legislation is important, and hopefully somehow we will find our way through this process this week, but I think it is pretty safe to say that 49 Republicans of the U.S. Senate are going to insist on being an important part of the process. Hopefully, we will be able to sort all that out and work our way through it and get this important piece of legislation out of the Senate and on the way, at least, back to the House or, hopefully, if we are lucky, back to the President for signature.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period for the transaction of morning business until 12 noon, with Senators permitted to speak for up to 10 minutes each, with the first hour equally divided and controlled between the two leaders or their designee, with the Republicans controlling the first 30 minutes and the majority controlling the next 30 minutes.

The Senator from South Dakota is recognized.

#### CARVING OF THE CRAZY HORSE MEMORIAL

Mr. THUNE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 496.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 496) honoring the 60th anniversary of the commencement of the carving of the Crazy Horse Memorial.

The Senate proceeded to consider the resolution.

Mr. JOHNSON. Mr. President, I wish to speak today about the Crazy Horse Memorial in South Dakota. On June 3, 2008, the Crazy Horse Memorial will celebrate the 60th anniversary of its dedication. Gutzon Borglum, who was the sculptor behind Mount Rushmore, brought Korczak Ziolkowski to South Dakota to work on Mount Rushmore. It was during construction of Mount Rushmore when Lakota Chief Henry Standing Bear contacted Korczak Ziolkowski and stated "My fellow chiefs and I would like the white man to know the red man has great heroes, too." It is believed that this statement led Mr. Ziolkowski to construct this memorial.

On June 3, 1948, this memorial was dedicated and construction has continued ever since. Mr. Ziolkowski worked on this memorial until the conclusion of his own life in 1982, when his wife, Ruth, took up the job that her husband began. The Crazy Horse Memorial Foundation was established and runs entirely on gifts and donations. No government funds have ever been used for construction of this memorial. With no way to predict when completion of this memorial will take place due to cost and weather, construction continues. When it is completed, however, it will be the largest carving on earth, measuring some 641 feet long by 563 feet high. To put that in perspective, it is said that all four heads on Mount Rushmore could fit into Crazy Horse's head.

Today, I wish to honor Korczak Ziolkowski, his wife, and their family for their continued work on this monument. In addition, I would like to honor those involved with the Crazy Horse Memorial Foundation. Most importantly, I wish to honor the memory of the great Lakota warrior to whom this memorial is dedicated, Crazy Horse, as well as all Lakota people for their great many contributions to our history and culture in South Dakota. It is they that this memorial is to honor.

Mr. THUNE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 496) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 496

Whereas sculptor Korczak Ziolkowski, who never received any formal art training but nonetheless won 1st place for sculpture at the New York World's Fair in 1939, came to

the Black Hills of South Dakota as an assistant to Gutzon Borglum to help carve Mount Rushmore;

Whereas Lakota Chief Henry Standing Bear contacted Korczak Ziolkowski in 1939 to encourage him to create another mountain memorial, saying in his letter of invitation: "My fellow chiefs and I would like the white man to know the red man has great heroes, too";

Whereas Crazy Horse was remembered by his people as a fierce warrior and visionary leader who was committed to preserving the traditional Lakota way of life;

Whereas Korczak Ziolkowski was inspired to honor the culture, tradition, and living heritage of North American Indians, and thus designed a metaphoric tribute to the spirit of Crazy Horse and his people;

Whereas Korczak Ziolkowski was dedicated as well to helping his country preserve freedom, enlisted in the Army, and was wounded in 1944 at Omaha Beach;

Whereas Korczak Ziolkowski returned to South Dakota after World War II in order to find a suitable mountain to carve in order to honor Crazy Horse and his people;

Whereas Korczak Ziolkowski and Chief Standing Bear dedicated the Crazy Horse Memorial on June 3, 1948;

Whereas Korczak Ziolkowski worked until his death in 1982, and his wife, Ruth, and their family have dedicated their lives to carving the mountain and continuing the mission of the Crazy Horse Memorial;

Whereas there is no way to predict when the mountain carving will be completed, owing to the uncertainty of weather, the availability of private funding, and the challenges of mountain engineering;

Whereas, when completed, the Crazy Horse mountain carving will be the largest carving in the world, at 641 feet long by 563 feet high;

Whereas Korczak Ziolkowski's parting words to his wife were, "You must work on the mountain—but go slowly so you do it right";

Whereas the Ziolkowski family and the Crazy Horse Memorial Foundation have continued to do it right, have proceeded without government financial support, and remain dedicated to making steady progress on the Memorial's humanitarian goals; and

Whereas the Crazy Horse Memorial will celebrate the 60th anniversary of the dedication of the mountain carving on June 3, 2008: Now, therefore, be it

*Resolved*, That the Senate, on the 60th anniversary of the commencement of the mountain carving of the Crazy Horse Memorial, honors sculptor Korczak Ziolkowski, the Ziolkowski family, and the Crazy Horse Memorial Foundation for their dedication to honoring the culture, tradition, and living heritage of North American Indians and the spirit of Crazy Horse and his people.

Mr. THUNE. Mr. President, the resolution that was adopted by the Senate is S. Res. 496, which I introduced on April 2, 2008, along with my colleague from South Dakota, Senator TIM JOHNSON. The resolution honors the 60th anniversary of the Crazy Horse Memorial.

The Crazy Horse Memorial, located in the Black Hills of South Dakota, honors the culture, the tradition, and the living heritage of Native Americans. Once completed, the memorial will stand more than 22 stories high and be the largest mountain sculpture in the world. Every year, there is an event called the Volksmarch, in which people start at the base and walk up to the very top of the monument. You cannot appreciate the size and the dimension of this great monument from

a distance. It is only when you get up close that the true dimensions of this monument come into full view. I have had that opportunity on the Volksmarch, with my family, to walk up and stand next to this monument and to have an appreciation for its true dimension and for what it means to my State of South Dakota and to the Native American culture.

The sculptor of this monument, Korczak Ziolkowski, had no formal training and originally came to South Dakota to assist Gutzon Borglum in the carving of Mount Rushmore. In 1939, Chief Henry Standing Bear invited him to construct another mountain monument, this one to honor a great Native American hero. However, it was not until June 3, in 1948, that the project was officially dedicated.

Crazy Horse, a great Lakota chief, was selected as the Native American hero worthy of the mountain monument because of his courage in battle, his visionary leadership, and his commitment to the preservation of the traditional Lakota way of life. The memorial was placed in the Black Hills of South Dakota because they are sacred to the Lakota people. While Crazy Horse was never photographed, the completed monument will feature a likeness of him riding a horse and pointing with his left hand out toward the Black Hills.

Ziolkowski, who worked tirelessly and without salary on the Crazy Horse Memorial until his death in 1982, believed in individual initiative and private enterprise and worked to build the memorial without any Federal funding. As my colleagues can see from the photo we have here, the face of Crazy Horse is complete, the rest of the mountain has been roughly blocked out, and efforts are currently focused on carving the horse's head.

While there is no way to predict the date of completion because of weather, financing, and the challenges of carving a mountain, Ziolkowski's wife Ruth, who is an amazingly determined woman, and his family, along with the help of thousands of donors and visitors, continues Ziolkowski's mission of honoring Native Americans through the construction of this monument.

Therefore, today I rise to honor the 60th anniversary of the Crazy Horse Memorial and send my best wishes to all those working to make Korczak Ziolkowski's vision a reality.

I thank the Senate for its adoption of the resolution, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Republican whip is recognized.

#### TAX POLICY

Mr. KYL. Mr. President, every now and then there is an article or an op-ed in the newspaper that you find compelling by its clear logic and you want to share it with your colleagues. I wish to do that today and at the conclusion of my remarks put the full text of this op-ed in the record.

Today's Wall Street Journal carried an op-ed by David Ranson called "You Can't Soak the Rich." I find it compelling because of the proposals by some that we should raise the marginal income tax rates and thereby theoretically increase revenues to the Treasury. What Ranson points out is it is essentially a law of economics that raising tax rates not only does not bring in more revenue to the Treasury based on the historic record, but it can have precisely the opposite effect because it can harm the economy and, in fact, it is the growth in the economy that produces more revenue to the Federal Treasury.

Let me quote a couple of comments from his op-ed. He said:

No matter what the tax rates have been, in postwar America tax revenues have remained at about 19.5 percent of GDP.

Now, there is another measure. If you go back somewhat less distance, the measure is about 1 percent less than that as a percentage of GDP, but the ratio remains the same and the point he is making remains the same, which is that raising tax rates does not raise revenue. In fact, raising tax rates can hurt the economy, which then reduces tax revenue.

There is a chart in this op-ed that makes the point. The Federal tax yield, which is revenues divided by the gross domestic product, has remained close to 19.5 percent, even as the top tax bracket was brought down from 91 percent to the present 35 percent. One would think that the difference between a 91-percent top marginal rate and 35 percent would represent a dramatic difference in revenues collected. In point of fact, it has not been. He points out why a little bit later in his op-ed. He says:

The data show that the tax yield has been independent of marginal tax rates over this period, but tax revenue is directly proportional to GDP.

In other words, the strength of the economy.

He goes on:

So if we want to increase tax revenue, we need to increase GDP.

What happens if we instead raise tax rates? Economists of all persuasions accept that a tax rate hike will reduce GDP, in which case Hauser's Law—

The law he is citing here—says it will also lower tax revenue. That's a highly inconvenient truth for redistributive tax policy, and it flies in the face of deeply felt beliefs about social justice. It would surely be unpopular today with those presidential candidates who plan to raise tax rates on the rich—if they knew about it.

He goes on to answer the question I posed earlier: What makes this law work? I am quoting now:

As Mr. Hauser said: "Raising taxes encourages taxpayers to shift, hide and underreport income. . . . Higher taxes reduce the incentives to work, produce, invest and save, thereby dampening overall economic activity and job creation."

Putting it a different way, capital migrates away from regimes in which it is treated harshly, and toward regimes in

which it is free to be invested profitably and safely. In this regard, the capital controlled by our richest citizens is especially tax-intolerant.

The point he is making is that if you are wealthy, you have the ability to move your income around, to hire accountants and tax lawyers to find ways to shield your income, and the bottom line is the Government never gets any more of it than if the rate remained at a lower level.

In fact, he points out that revenue collections by the Government have remained almost constant over this 40-year period and that their ratio to the GDP has remained almost constant; the point being that the revenue collected by the Government is most in relation to the state of the economy. It is mostly dependent upon the economy. As the economy grows, revenues to the Federal Treasury grow. As the economy slows, tax revenues slow, and that is exactly what we are seeing right now.

So we should take two important lessons from this. No. 1, in a time of economic downturn, which is what we are in right now, the last thing you would want to do is to raise tax rates because you are going to hurt the economy and you are not going to bring in any additional revenue. Secondly, this speaks to the point my colleague from Arizona, Senator McCAIN, has been making, which is that, in the long term, what you want to do is reduce tax rates if you can—at least leave them where they are but not raise them—if you want to be fair both to the American family and help the economy grow and get us out of this economic downturn. Incidentally, that is what will produce the most revenue for the Federal Treasury to pay for all that the Congress and the President end up passing in legislation and passing on to American taxpayers.

So I ask unanimous consent to place this op-ed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 20, 2008]

YOU CAN'T SOAK THE RICH

(By David Ranson)

Kurt Hauser is a San Francisco investment economist who, 15 years ago, published fresh and eye-opening data about the federal tax system. His findings imply that there are draconian constraints on the ability of tax-rate increases to generate fresh revenues. I think his discovery deserves to be called Hauser's Law, because it is as central to the economics of taxation as Boyle's Law is to the physics of gases. Yet economists and policy makers are barely aware of it.

Like science, economics advances as verifiable patterns are recognized and codified. But economics is in a far earlier stage of evolution than physics. Unfortunately, it is often poisoned by political wishful thinking, just as medieval science was poisoned by religious doctrine. Taxation is an important example.

The interactions among the myriad participants in a tax system are as impossible to unravel as are those of the molecules in a gas, and the effects of tax policies are speculative and highly contentious. Will increasing tax rates on the rich increase revenues,

as Barack Obama hopes, or hold back the economy, as John McCain fears? Or both?

Mr. Hauser uncovered the means to answer these questions definitively. On this page in 1993, he stated that “No matter what the tax rates have been, in postwar America tax revenues have remained at about 19.5% of GDP.” What a pity that his discovery has not been more widely disseminated.

The chart, updating the evidence to 2007, confirms Hauser’s Law. The federal tax “yield” (revenues divided by GDP) has remained close to 19.5%, even as the top tax bracket was brought down from 91% to the present 35%. This is what scientists call an “independence theorem,” and it cuts the Gordian Knot of tax policy debate.

The data show that the tax yield has been independent of marginal tax rates over this period, but tax revenue is directly proportional to GDP. So if we want to increase tax revenue, we need to increase GDP.

What happens if we instead raise tax rates? Economists of all persuasions accept that a tax rate hike will reduce GDP, in which case Hauser’s Law says it will also lower tax revenue. That’s a highly inconvenient truth for redistributive tax policy, and it flies in the face of deeply felt beliefs about social justice. It would surely be unpopular today with those presidential candidates who plan to raise tax rates on the rich—if they knew about it.

Although Hauser’s Law sounds like a restatement of the Laffer Curve (and Mr. Hauser did cite Arthur Laffer in his original article), it has independent validity. Because Mr. Laffer’s curve is a theoretical insight, theoreticians find it easy to quibble with. Test cases, where the economy responds to a tax change, always lend themselves to many alternative explanations. Conventional economists, despite immense publicity, have yet to swallow the Laffer Curve. When it is mentioned at all by critics, it is often as an object of scorn.

Because Mr. Hauser’s horizontal straight line is a simple fact, it is ultimately far more compelling. It also presents a major opportunity. It seems likely that the tax system could maintain a 19.5% yield with a top bracket even lower than 35%.

What makes Hauser’s Law work? For supply-siders there is no mystery. As Mr. Hauser said: “Raising taxes encourages taxpayers to shift, hide and underreport income. . . . Higher taxes reduce the incentives to work, produce, invest and save, thereby dampening overall economic activity and job creation.”

Putting it a different way, capital migrates away from regimes in which it is treated harshly, and toward regimes in which it is free to be invested profitably and safely. In this regard, the capital controlled by our richest citizens is especially tax-intolerant.

The economics of taxation will be moribund until economists accept and explain Hauser’s Law. For progress to be made, they will have to face up to it, reconcile it with other facts, and incorporate it within the body of accepted knowledge. And if this requires overturning existing doctrine, then so be it.

Presidential candidates, instead of disputing how much more tax to impose on whom, would be better advised to come up with plans for increasing GDP while ridding the tax system of its wearying complexity. That would be a formula for success.

Mr. KYL. Mr. President, I urge my colleagues to review the op-ed and apply it to the lessons we have today. In fact, the legislation we will be taking up today increases taxes—increases the tax rate—by applying a 0.5-cent surcharge or surtax on the top mar-

ginal rate. This is going to be very destructive. Over 80 percent of the people who report that top marginal rate, report small business income. So we are going to be hurting the small businesses of this country, not the big businesses or the wealthy that the surcharge is intended to hit, and we will end up not increasing Federal revenues but actually decreasing them and hurting the economy in the process.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

#### JUDICIAL CONFIRMATIONS

Mr. HATCH. Mr. President, yesterday on the Senate floor the distinguished majority leader mentioned my name and repeated a claim about my service as chairman of the Judiciary Committee, which I once again am compelled to correct. He said: “Sixty of President Clinton’s nominees were denied hearings.”

In a letter to the distinguished minority leader and the distinguished ranking member of the Judiciary Committee dated April 30, 2008, he similarly stated that:

Senator HATCH exercised the chairman’s prerogatives freely during the years in which more than 60 of President Clinton’s nominees were denied hearings or floor consideration.

The claim—and it has been repeated in various forms by others—is that all these nominees could have been confirmed but were not because I simply blocked them.

What is not mentioned is President Clinton came within seven of setting an all-time judicial appointment record while I was chairman. He was treated fairly. I had hearings and moved people to the floor that many on our side had real qualms about. It is true that approximately 60 of his judicial nominees were not confirmed, not in 1 year, as the distinguished majority leader said yesterday, but in all 8 years. They were not confirmed for a host of different reasons, most having nothing to do with the chairman’s prerogatives.

President Clinton, for example, withdrew a dozen of those nominees himself—actually withdrew them. That was not my prerogative as chairman; it was his prerogative as President. These withdrawn nominees included a nominee to the U.S. District Court whose record as a State court judge in criminal cases was so troubling that prosecutors in her own State, led by a Democrat, opposed her. Instead of certain defeat on the Senate floor, the Republican leader at the time allowed President Clinton to withdraw her nomination. She was not denied a hearing; she had a hearing and was reported to the floor. She was not denied floor consideration; she was spared floor defeat.

The unconfirmed Clinton nominees included an appeals court nominee who, though he had raised millions for the Democratic Party, admitted in his

hearing that he knew virtually nothing about such basic areas as criminal or constitutional law. President Clinton wisely withdrew him. These unconfirmed nominees included an appeals court nominee who had lied about his background, making claims that were politically potent but patently false. President Clinton withdrew him. Was he unconfirmed? Yes. Was he blocked by Republicans? No. These and others like them were not what some on the other side of the aisle have called pocket filibusters. They were not, as the distinguished majority leader has said, simply denied consideration at the chairman’s prerogative.

The unconfirmed Clinton nominees include many who did not have the support of their home State Senators. Nominees in this situation did not receive hearings under the chairmen before me as well as those who succeeded me, including the current Democrat chairman who will not call them up if a home State Senator opposes them. That is the policy and tradition of the Judiciary Committee, not simply the chairman’s prerogative. Nor is it a pocket filibuster. That is a phony term. Yet, these nominees were unconfirmed and are, therefore, lumped into this category. So are nominees who were not confirmed in the Congress during which they were nominated and President Clinton chose not to renominate. That was his choice, not mine. For these and other reasons, the vast majority of President Clinton’s unconfirmed nominees did not make it all the way through the confirmation process for reasons having nothing to do with my chairmanship of the committee.

Now, there are always, at the end of every Presidency, those nominees who are put up too late, where you could not get the FBI work done or you could not get the investigatory work done or you couldn’t get the ABA report done or there were nominees who had problems in their FBI reports. There were further reasons nominees could not make it at the end of President Clinton’s term. I might add that is true of every Presidential term that I recall in my 32 years in the Senate. It is also true that I put through nominees that my side had a lot of angst over because I believed, as I always did in my chairmanship, the President had the power of nomination. We had the power to vote, up or down, against those nominees. So I brought up people who caused a lot of angst on our side because I believed the President deserved that—unlike some on our side who have been very badly mistreated. I will cite Peter Keisler as a perfect illustration.

So I had to come here and set the record straight once again. Some judicial nominees of every President are not eventually confirmed. My friends on the other side of the aisle returned more than 50 unconfirmed judicial nominees to President Bush at the

close of the 102nd Congress. But when the reasons nominees are not confirmed are accurately considered, the claim that some 60 Clinton nominees were simply pocket filibustered or were blocked at the chairman's prerogative is simply not true.

I believe it to be a gross misrepresentation. I don't blame the majority leader. He is a personal friend of mine. He read from a staff-prepared speech. Nevertheless, that speech was wrong.

Let me give you an illustration. These are people sitting right now on the calendar. Peter Keisler has been waiting 691 days for a vote in the Judiciary Committee. By any measure, he is highly competent, decent, and honorable. He has the highest rating from the American Bar Association. Judge Robert Conrad has been waiting 308 days for a Judiciary Committee hearing. He also has the highest ABA rating. This body confirmed him just three years, without a dissenting vote, to the district court, where he is now chief judge. Steve Matthews has been waiting 257 days for a hearing. He too has first-rate qualifications and a positive ABA rating. Many others are still awaiting a vote, as we have been sitting in the Senate not doing very much regarding judicial nominees.

#### ELDER JUSTICE ACT

Mr. HATCH. Mr. President, since May is a month to honor and recognize older Americans, I would like to take a few minutes to talk about my strong commitment to having the Elder Justice Act, S. 1070, approved by Congress and signed into law before the conclusion of the 110th Congress.

Emily Dickinson once said, old age comes on suddenly, and not gradually as is thought. As someone who just celebrated a birthday a few months ago, this statement has never seemed more accurate!

Approximately 44 million people in this country are age 60 and above which tells me that caring for older Americans must be a high priority of future Congresses.

In fact, U.S. citizens 60 years of age and above will increase dramatically over the next 30 years more than 76 million baby boomers will be approaching retirement and old age over the next three decades. Let me say that one more time—more than 76 million baby boomers will be approaching retirement and old age over the next three decades.

Earlier this Congress, Senators LINCOLN, SMITH, KOHL and I introduced the Elder Justice Act. Congressmen RAHM EMANUEL and PETER KING introduced a nearly identical bill in the House. Currently, the Senate bill has 28 cosponsors and the House bill has 113 cosponsors.

One person who really deserves a lot of the credit for this bill is our former colleague from Louisiana, Senator John Breaux. He got the ball rolling over here in the Senate. I will never forget him coming to me way back in the 107th Congress and telling me that

I needed to work with him on the Elder Justice Act because it would make a tremendous difference for older Americans throughout the country. He and I introduced the Elder Justice Act back in the 107th Congress and ever since then, the bill has been reintroduced each subsequent Congress.

I also want to acknowledge the fine work of the Elder Justice Coalition, led by Bob Blancato, its national coordinator.

To date, the Elder Justice Coalition has close to 550 members and has done an incredible job advocating for the passage of this legislation.

This Congress, for the first time, the Elder Justice Act has been seriously considered by the House. Last week, the House Judiciary Committee considered the Elder Justice Act and it appears that it will be voted out of that committee this week. In the Senate, the legislation has been reported unanimously by the Finance Committee in both the 109th and 108th Congress; however, it has never been approved by the full Senate. As far as I am concerned, this year is going to be different. I will do everything in my power to ensure that this legislation will pass the Senate and be signed into law before the 110th Congress adjourns.

Senator LINCOLN and I are going to work with Finance Committee Chairman MAX BAUCUS and Ranking Member CHUCK GRASSLEY to schedule a markup on this bill sometime this summer.

Over the past couple of years, I worked very closely with Health and Human Services Secretary Mike Leavitt and his staff to address the concerns that the administration has raised regarding our bill. Last Congress, I felt like we had some fruitful discussions and progress was made. Secretary Leavitt is a good friend of mine and he knows how important it is to me, Senator LINCOLN and senior citizens across the country to have this legislation signed into law. The Secretary assured me that he and his staff would continue to work with us on this bill.

So I intend to initiate discussions with the administration once again in the hope that we will be able to come to agreement. And I think we are very close.

I have had many ask why does there appear to be such a dramatic increase in elder abuse in the United States. Because there is so little data on elder abuse, it is difficult to know the answer to that question.

Quite honestly, I believe that more and more people are taking notice.

In the past, there has been no data collection of elder abuse—I find that quite disturbing. The purpose of our legislation is to make changes in the law so we have more precise numbers on how many seniors are being exploited financially, being neglected or being physically or mentally abused.

Findings from the often cited National Elder Abuse Incidence Study suggest that more than 500,000 Americans aged 60 and above were victims of domestic abuse in 1996. Studies show

the amount of Federal dollars spent on abuse and neglect of elders is substantially smaller than that spent on child and domestic abuse.

Elder abuse is a profoundly personal tragedy for its victims—let me cite a case from my home state of Utah. In Utah and across the country, elderly Americans are being exploited and essentially being swindled out of thousands of dollars. A local news station in Salt Lake recently had a story that discussed check scams and how seniors are typically the target of these questionable operations.

In Utah alone, the money that people have lost due to these types of scams has quadrupled over the last 3 years. And while many of these operations have addresses in the U.S., they typically originate overseas.

For example, a check has been made out to a Salt Lake City senior for close to \$4,000. The senior is told that he has been chosen to be a secret shopper and has the chance to win thousands of dollars. He is told that he may keep \$500, no strings attached, but he must wire more than \$3,000 back to them in order to get the \$500. Because this senior sees the chance to win \$500, he sends the check for \$3,000 and loses all of his money.

According to the postal inspector, once a person responds to these scams, he or she is put on what is called a sucker's list and continues to be promised that hundreds and even thousands of dollars could be gained if a check is sent. In Utah, 6 to 700 checks are reported to be sent to these organizations each month.

The Elder Justice Act would help the Federal Government collect data on how many senior citizens are being financially exploited, mentally and physically abused and neglected.

This chart illustrates the dramatic difference in dollars spent on elder abuse compared to child abuse and domestic abuse.

Ninety-one percent, or \$6.7 billion, is spent on child abuse, 7 percent, or \$520 million on domestic abuse and only 2 percent, or \$153.5 million, is spent on elder abuse. Considering the high numbers of the population above age 60, it astounds me the small percentage the Government is willing to dedicate to ending elder abuse.

The Elder Justice Act aims to address this serious problem.

Our bill would provide Federal resources to support State and community efforts on the front lines dedicated to fighting elder abuse with scarce resources and fragmented systems.

It directs the Federal Government to provide leadership to the States and takes an important first step by calling on the Federal Government to create an appropriate way to collect relevant data on elder abuse so we have a better handle on how prevalent elder abuse is among our neighbors, our friends, and our relatives.

It assures adequate public-private infrastructure and resources to prevent,

detect, treat, understand, intervene in and, where appropriate, prosecute elder abuse, neglect and exploitation.

With more than 76 million baby boomers retiring over the next three decades, we cannot wait any longer for this legislation to pass. Older Americans deserve nothing less. I know that it is extremely important to folks back home in Utah.

In closing, I urge my colleagues to support this legislation so we can provide older Americans the same protections that we provide to our children and victims of domestic violence. Because we are not aging gradually, our response must be immediate—we cannot afford to wait for another Congress to end without approving this legislation.

Ralph Waldo Emerson once said, men are respectable only as they respect. May we strive to be more respectable people by showing respect to those who deserve it the most: our older Americans.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

#### OLDER AMERICANS MONTH

Mrs. LINCOLN. Mr. President, each May, our Nation pays tribute to the contribution older Americans have made to our great country as many communities all across our great Nation come together to celebrate Older Americans Month.

Having grown up in eastern Arkansas in a small community, the daughter of a farmer, I was within walking distance of both my grandparents. I learned incredible lessons from them that I still carry with me today. I imagine there are many of my Senate colleagues who can stop and think about a wonderful memory of growing up with grandparents or maybe an older aunt or uncle who lived nearby, perhaps it was a favorite schoolteacher or a mentor in the community or in their neighborhood.

The pride and dedication older Americans have had for our country was impressed upon me from a very early age, from all of those different figures in my life—my grandparents, obviously, but also from wonderful teachers, as well as neighbors, those who shared their stories with me, they shared their values with me, they helped me become the person I am today. Whether it was hearing about my grandfathers' service in World War I—both of them having served as infantrymen in World War I—or maybe it was the jar my grandmother left on the mantelpiece that stored the coins during the Great Depression or the story of my neighbor who, during World War II, flew over "the hump" and did tremendous feats in World War II, so many people who have affected my life. Again, I am sure that if any Senator takes the time, they will remember their lives have been affected as well by an individual just like that.

Even though I didn't know it, I was a caregiver at an early age when it was one of my and my cousin's tasks to take dinner, nightly meals over to our grandparents' house. Later in my life, when my grandmother was ill and lived with us in our home and I shared a room with her, that time spent with my grandparents and with others, other elderly people in my community and in my neighborhood—they were priceless for both of us. Not only was I able to give something of my energy and my experiences in the current time, but it was wonderful also for her, my grandmother, who lived with us, because she was able to share her experiences and values with me, and I was able to learn so many of life's lessons from her and from the others in my community.

Today's world is so much different. Even though we no longer live within walking distance of our parents or grandparents, my husband Steve and I make a very conscious effort to ensure that our children spend quality time with their grandparents. It seems appropriate, then, during Older Americans Month that I rise this morning to draw attention to a piece of legislation that I and my good friend and colleague from Utah, Senator HATCH, who has been on the Senate floor earlier this morning, have introduced that seeks to protect millions of older Americans. It is the Elder Justice Act.

I also want to note that Chairman KOHL and ranking member GORDON SMITH of the Senate Special Committee on Aging have been champions of this legislation as well, and I certainly appreciate all they do in bringing about both support as well as knowledge of this piece of legislation.

I have been a cosponsor of the Elder Justice Act since it was originally introduced in 2002, and I helped pass a version of this bill out of the Senate Finance Committee in 2004, in 2005, and again in 2006. Unfortunately, the Elder Justice Act has yet to become law despite the fact that our Nation continues to grow older and despite the fact that the tragedy of elder abuse, neglect, and exploitation continues.

It is hard for any of us to imagine that our elderly loved ones would be victim to those types of actions, the abuse or neglect or exploitation that exists in this country. We have held hearings on elder abuse for almost 25 years. Yet not one single Federal employee works full time on this issue. We are beginning to make progress. I encourage all my colleagues to join me, not only in this month when we celebrate the wonderful heritage of older Americans, but to ensure that we move a piece of legislation that will protect them.

The House of Representatives recently held its first hearing on this issue in 17 years—thanks to the hard work of Congressman RAHM EMMANUEL and PETER KING—and the Elder Justice Act is currently going through the committee markup in that body. In ad-

dition to adding cosponsors, we are looking for opportunities to pass this legislation this year in the Senate.

Abuse of our senior citizens can be physical, it can be sexual, it can be psychological, or it can be financial. The perpetrator may be a stranger, it may be an acquaintance, it may be a paid caregiver, it might be a corporation and, sadly, even a spouse or another family member. We have an obligation to the older Americans of this country not to sit around for another 25 years but to come up with the solutions that already exist for so many other Americans. Elder abuse happens everywhere and at all levels of income and in all geographic areas, whether you live in an urban area or out on a county road in rural America. No matter how rich you are, and no matter where you live, no one is immune. When we say no one is immune, it means none of our loved ones are immune from this horrific act.

Congress must make our seniors a priority and pass the Elder Justice Act as soon as possible. This bill represents a consensus agreement developed by the Elder Justice Coalition, a national coalition of 547 members, including 226 organizations and 321 individuals, dedicated to eliminating elder abuse, neglect, and exploitation in this great country of ours. This bill reminds us that Congress has already passed comprehensive bills to address child abuse and violence against women but has continued to ignore the fact that we have no Federal law enacted to date on elder abuse.

We have made great strides. I know, as cochairman of the Senate Caucus on Missing and Exploited Children, we have made great strides in how we can better protect our children from exploitation and from all the different fears and dangers that are out there. Why would we not want to do this for the wonderful elderly people of this country who have given all of us so very much?

Every older American has the right to enjoy his or her golden years free of abuse and neglect. As Americans age—and I know and many of us know from personal experience—they want to maintain their independence and their dignity and their pride. It is very difficult when they become exploited or abused or neglected. It is hard for them to reach out and ask for help and care, particularly of their children. It is not something easy for them to do. It is why we have the responsibility in the Senate to do something about elder abuse.

The Elder Justice Act will enhance our knowledge about abuse of our seniors in all of its terrible forms. It will elevate elder abuse to the national stage. We cannot solve this problem if we do not understand it, we do not know how it occurs, and we do not begin to use the tools we have already to protect the seniors of this country. Too many of our seniors suffer needlessly. Each year anywhere between

500,000 and 5 million seniors in our country are abused. They are abused, neglected, or exploited, and, sadly, most of those abuses go unreported.

This historical problem will only worsen as 77 million baby boomers begin to age. The Elder Justice Act confronts elder abuse in the same way we combat child abuse and violence against women—through law enforcement, public health programs, and social services at all levels of government. We are not talking about reinventing the wheel, we are talking about using what we have learned in the abuse of children and in the abuse of women and applying those tools to one of our greatest blessings, the elderly of this country.

The bill also establishes research projects to assist in the development of future legislation. The Elder Justice Act will take steps to make older Americans safer in their own homes, in nursing home facilities, in neighborhoods all across this country. It enhances the detection of elder abuse, and it helps seniors recover from abuse after it happens. It increases collaboration between Federal agencies and between Federal, State, local, and private entities, law enforcement, long-term care facilities, consumer advocates, and families to prevent and treat elder abuse.

I urge my colleagues, all of them, to remember those individuals in your life, certainly in your communities, and others who have given so much to this country, whether it was somebody years ago who helped to build this great Nation through education as a teacher, perhaps, an educator; maybe it was building our economy in this country by building a great company or a great effort there; perhaps it was a soldier from years past who defended the rights of this country and our freedoms today. Look back and consider the special people in your life, such as an elderly neighbor or a grandparent. I know there is not a day that goes by in my life that I don't think about those people who have so tremendously affected my life, who have taught me values, and who have shared stories with me, who have helped me become who I am. Each one of us needs to stop and think of those individuals.

Maybe it was a teacher in the first grade. Maybe it was a coach. Maybe it was a music instructor. Maybe it was a Sunday school teacher. Maybe it was a police officer. I think of all those different people who have made a difference in my life, and I want to ensure that as a nation we respect their safety and their ability to live in this country with dignity and security.

I hope all my colleagues will consider whomever those special people were in their lives, who helped support their dreams, provided wisdom, perhaps, and advice throughout their development—there are millions out there—and each one of us needs to take the time to remember them. It is time for Congress to pass comprehensive legislation to

address elder abuse and protect those in their twilight of life.

I urge my colleagues to take a look in this month of May, when we look in respect and admiration to the older Americans of this country, and provide the kind of law that we have provided for children and for women to protect them from abuse and exploitation.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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#### ENERGY

Ms. KLOBUCHAR. Mr. President, a few weeks ago, I came here and said that each week I was going to give a talk on the floor about another piece of the puzzle of why it is so important to pass climate change legislation this year; about how we cannot wait as we see tremendous changes to our environment and our way of life. We need to act and we need to act now.

Last summer, I took a trip to Greenland with other members of the Environment and Public Works Committee to see firsthand the effects of global climate change. One of the scientists traveling with us described Greenland as a canary in the coal mine when it comes to global warming.

Greenland has lost an amount of ice in 1 year equal to two times all the ice on the Alps. People in Greenland are planting potatoes in places where they used to run sled dogs on the ice. What we saw on that trip only confirmed for us what the scientific community has now asserted in an overwhelming consensus. Average global temperatures are up 1 degree in the last century. Now, that does not sound like much, but to put it in perspective, they are only up 5 degrees since the height of the Ice Age.

The EPA forecasts an increase of 3 to 8 degrees for the next 100 years. It is up 1 degree in the last century, estimated 3 to 8 degrees in this 100 hundred years. Ice caps are melting, ocean levels are rising, and glaciers are shrinking.

The Intergovernmental Panel on Climate Change has concluded there is irrefutable evidence of climate change on every continent, with risks to several species and the danger of increasing violent weather events.

When I arrived in the Senate a little over a year ago, people were still debating whether climate change was real; was it actually happening? The debate is over, the facts are in, and now we are finally debating solutions.

I am proud to say it is science that has affected our actions and that this shift in our thinking is because there are people now in this Chamber who

are willing to look at and talk about the science.

Last year in the Energy bill, we raised fuel economy standards for cars and trucks and other vehicles for the first time in years and years, for the first time in decades. The new standard will boost fuel efficiency by 40 percent and cut millions of tons in carbon emissions. And, most importantly, as we look at how much gas costs, it is going to save the average family, depending on how many children they have, something like \$1,000 a year.

So this is not only about environmental issues, this is about economic pocketbook issues as well. In the farm bill agreement the conferees approved last week and this Senate passed, we have important incentives to move farmers toward the next generation of clean, renewable biofuels, using cellulosic crops that can be grown on marginal farmland with minimal chemical input.

This is the next generation of biofuels; using other parts of the corn, looking at switchgrass, prairie grass, things that actually are consistent with conservation and can be good for our environment and can help to wean us off our dependency on foreign oil. Instead of investing in the sultans of Saudi Arabia, we can be investing in the farmers and the workers of this country.

Now it is time for us to take the next crucial step in energy and conservation policy: enact strong, comprehensive climate change legislation, the Lieberman-Warner bill, that will come before the Senate in a few weeks.

I referred a moment ago to our trip to Greenland last summer. But today I wish to discuss a second trip I took recently, that is, around my State, visiting many small towns in the State of Minnesota.

I visited the campus of the University of Minnesota-Morris, where they are building a biomass gasification plant. It turns farm and forest byproducts into gas and produces electricity. Within a year or two, it will meet the heating, cooling, and electricity needs for the entire campus without burning any carbon-emitting fossil fuels. I visited southwestern Minnesota, where I have been many times, where there is a sprawling windmill farm on the rise of land called Buffalo Ridge. You can see towering turbines for miles, and they are now supplying a significant share of Minnesota's power needs—in fact, with the standard enacted on a bipartisan basis by our State legislature, 25 percent by 2025 for renewable energy of all kinds for the provision of electricity. In tiny Starbuck, MN, 10 people left their jobs to join a solar panel factory manufacturing solar panels to make electricity from the Sun. These projects are reducing our dependence on fossil fuels and cutting our emissions of greenhouse gases.

The point I wish to discuss today as part of this week's discussion is that they are creating good jobs. I mention

these examples because when we discuss climate change and solutions, too many people think it has only to do with doing without, cutting back, and doing less. It is true conservation must play a central role in a comprehensive energy policy to clean up our planet and reduce our dependency on foreign oil. This isn't the days of Jimmy Carter putting on a sweater and going on TV and looking glum. People actually see this as an economic benefit, if they conserve, because they are going to save money. It is also true that by adopting a strong, sensible policy toward reducing greenhouse gas pollution, we can open the door to a world of opportunities, which means new jobs.

As we prepare to discuss action on climate change, here is what we must remember. There is a possibility, a strong possibility, an opportunity that we can get more out of this. This means manufacturing a new generation of refrigerators, air-conditioners, and other household appliances that meet the needs of consumers while consuming less electricity. It means designing buildings with "smart glass" and rooftop gardens that conserve energy and water. Some people think these rooftop gardens are some kind of landscaper's lark, but they aren't. They keep buildings warmer in the winter and cooler in the summer and capture airborne pollutants that otherwise would enter the air we breathe. JPMorgan, a huge investment bank, recently redesigned its Manhattan headquarters with a rooftop garden and estimates it will save 30 percent on its utility bills.

Since cars and trucks are a major source of our greenhouse gas emissions, this next generation of looking at the world differently means exploiting the full potential of hybrid automotive technology. Hybrid cars and trucks, however, have already shown themselves to be a great success story, on the sales lot and in the engineering laboratory. The old version required you to plug in the car and carry around extra batteries. Because we invested in research and provided some limited Federal incentives, we are not only seeing a better product; we are also seeing an explosion in consumer demand that would have been unthinkable a few years ago.

Now Chevrolet has developed another breakthrough, the Chevy Volt, a battery-powered car which could be on the market in less than 2 years. You will be able to plug the Volt into an ordinary household outlet and then drive up to 40 miles without using a drop of gasoline. Your car isn't going to stop when it finishes up 40 miles. It converts over to fuels and biofuels. The waiting list for hybrid vehicles shows consumers welcome efficient designs and are buying vehicles that will create good jobs for autoworkers and other people in manufacturing.

Taken together, this sort of technology has the potential to create thousands, perhaps millions, of good

jobs and spur millions of dollars in productive new investment.

Consider the potential of biomass, burning dedicated crops to produce electricity. The U.S. Department of Energy estimates that a concerted effort to develop dedicated energy crops for biomass powerplants could generate 120,000 new jobs over the next 15 years. Consider the potential of wind energy. Each large utility-scale wind turbine that goes on line generates over \$1.5 million in economic activity. Each turbine provides up to \$5,000 in lease payments per year for 20 years or more to farmers, ranchers or other landowners.

When we start putting all the pieces of this puzzle together, a whole new vista for the economy opens. The Union of Concerned Scientists estimated last year that merely adopting a strong national renewable energy standard, one important step toward reducing greenhouse gas pollution, would create 185,000 jobs in industries such as wind and solar by the year 2020.

Daniel Kammen, who runs the Renewable and Appropriate Energy Laboratory in California, points out that \$1 invested in renewable energy creates three to five more jobs than \$1 invested in fossil fuels, as we can see here. That is because renewables create jobs in engineering and manufacturing and because that money is invested here at home, instead of being shipped overseas for foreign oil producers.

This institute estimates that if our country met 20 percent of its electricity needs from wind power, solar, biomass, and other renewables, those industries would employ more than 250,000 people every year, compared to fewer than 100,000 jobs if we continue to get all our electricity from fossil fuels.

This week, the U.S. Department of Energy estimated that by the year 2030, it would be feasible for wind power to supply 20 percent of our country's electricity needs, matching the output of nuclear powerplants.

Finally, the Apollo Alliance estimates that if we made a full-bore national commitment to climate change through energy-conserving technology, building design, more efficient vehicles, and renewable fuels, we could create 3 million new jobs and an additional \$1 trillion of economic output in the next decade. This is our opportunity. But it is only that. It is only an opportunity unless we seize it because our country will not mobilize the automobile engineers, the landscape architects, the building designers, the appliance manufacturers, the power companies, unless we send the right signal to the economy as a whole, the signal that our country is committed to technologies that will help us battle climate change.

Consider this: Despite the wind farms and solar energy companies cropping up here and there across the country, the United States is no longer a leader in these clean energy technologies. We rank third in wind power, third in pho-

tovoltaic power installed. Ironically, our country has been surpassed by countries that took the technology developed in the United States, and it has allowed foreign competition to leapfrog over American businesses.

Here is my answer: We need leaders. We need American leaders, not followers. The private sector has read the evidence and is waiting for us to show leadership. Last winter, the Environment Committee heard from the chief executives of 10 major corporations, including General Electric, DuPont and Duke Energy. They have formed the United States Climate Action Partnership. They seek a mandatory, market-driven approach to reducing greenhouse gas emissions, an approach they believe will drive development of new greener technology and become an engine for new economic growth and job creation. They are waiting for leadership from Washington. In a few weeks, we will have the opportunity to demonstrate that leadership. My colleagues, Senators LIEBERMAN and WARNER, have written climate change legislation that is bold but practical, forward thinking but pragmatic. They recognize that the time for study is over, the time for hesitation has passed. The time for action is upon us. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

#### JIMMY STEWART'S 100TH BIRTHDAY

Mr. CASEY. Mr. President, I rise to pay tribute to a native Pennsylvanian. Today we honor what would have been the 100th birthday of one of Pennsylvania's most famous sons, Jimmy Stewart. The fact that we call him Jimmy tells a lot about who he was, what he meant to our State, what he meant to America. Jimmy Stewart is most famous for his unforgettable roles in movies such as "Mr. Smith Goes to Washington," "It's a Wonderful Life," and on and on, so many great movies to remember him by. But Jimmy Stewart never forgot his Pennsylvania roots.

He was born in Indiana, PA, on May 20, 1908. His family owned the hometown hardware store where the Stewart family could trace their roots in Indiana County back to 1772. Stewart attended Princeton University, where he studied architecture and graduated in 1932. Because of the stock market crash of 1929 and the Great Depression that followed, Jimmy Stewart questioned whether he would find employment as an architect, and he accepted a position in an acting troop. Shortly after joining, Stewart began working on Broadway, which eventually led to screen tests with major motion picture production companies. His work in "Mr. Smith Goes to Washington," in which he played a freshman Senator, earned him his first nomination for an Academy Award. He was also nominated for Oscars for best actor for "It's

a Wonderful Life," released in 1946; "Harvey," released in 1950; and "Anatomy of a Murder," released in 1959. He won his only Academy Award for best actor in 1940 for his role in "The Philadelphia Story."

I have to say, in a personal way, that every December, during the holiday season, I think I join a lot of Americans in trying to watch, yet again, "It's a Wonderful Life." The reason I watch it—plenty of reasons—principally is because it is an American story, an American story of struggle, of family love, and the positive impact one person's life can have on an entire community.

We all know Jimmy Stewart served his country in World War II but was initially rejected from service because he was 5 pounds underweight. But he wouldn't let that stop him from serving. He went home to Indiana, added some weight, and enlisted in the Army Air Corps. He got a whole series of commendations for his service in the Army Air Corps. He retired from the Air Force in 1968, at the mandatory retirement age, and received the Distinguished Service Medal. The signature charity event he started, the Jimmy Stewart Relay Marathon Race, held each year since 1982, has raised millions of dollars for the Child and Family Development Center at St. John's Health Center in Santa Monica, CA.

Jimmy Stewart received the Lifetime Achievement Award from the Academy of Motion Picture Arts and Sciences and the Life Achievement Award from the American Film Institute for fundamentally advancing the art of American film. The American Red Cross presented Jimmy Stewart with their humanitarian award for service to his fellow man. On his 74th birthday, his hometown of Indiana unveiled a statue of their native son in front of the Indiana County Courthouse.

Jimmy Stewart passed away on July 2, 1997. He was mourned by fans worldwide. Perhaps the greatest tribute of the American Film Institute was the observation that James Stewart is an actor "so beloved by the movie going public that they call him Jimmy, just like a member of the family."

His was truly a remarkable life. In Pennsylvania and across America today, we say happy 100th birthday, Jimmy.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

#### ENERGY PRICES

Mr. WHITEHOUSE. Mr. President, first, let me say how pleased I am to follow the distinguished Senator from Pennsylvania, hearing him talk about his native son, to whom I think it is fair to say he bears some resemblance.

But I have another topic today, which is the cost of gasoline in Rhode Island. In Rhode Island today, a gallon of regular unleaded costs \$3.84 on aver-

age, according to AAA's daily report. That price is nearly 40 cents higher than it was 1 month ago. It is almost 77 cents higher than it was a year ago. I had a Rhode Island visitor to my office last week who runs a little oil company in Bristol. He reported his oil supply costs have gone up 60 cents in 2 weeks. By the way, it is springtime.

When I was home over the weekend, I saw prices for regular gas at \$3.89 and super at \$4.12. High gas prices have been over all the news in the last several weeks in Rhode Island and across the country. But this problem did not emerge overnight. It has built up over the 7½ years of the Bush administration.

Since President Bush took office in 2001, gas prices in Rhode Island have more than doubled—a price hike of more than \$2 for every gallon. Seven years of two oil men in the White House has left Rhode Islanders facing the highest gas prices they have seen since the fuel crisis days of 1981.

The steady and steep rise in the price of gasoline is forcing many working families in Rhode Island to make choices that would have seemed unimaginable only a few months ago, choices that are harsh and cold: A mother walks home from work through pouring rain because she can only afford to spend \$10 a week on gasoline; a man cuts down on buying gas so he will have enough to pay for his prescriptions. Families in South County are hungry but have to think twice about the gas to drive to the food pantry to pick up food for their families.

One man told the Providence Journal:

The food is expensive, the clothes are expensive—I've got medication. I don't know what will happen—every week, everything is more expensive.

For too many families in our Ocean State, when everything is more expensive, some things get left out: Only half a tank of gas this week, less money for groceries, no new clothes for the kids.

Working Rhode Island families do not have an extra \$2,000 in their annual family budget to spend on gas, and that is how much more they are paying now than they did in 2001 when Bush took office. Bush-McCain economics have left these families struggling to make ends meet, wondering how they will pay the bills if a child gets sick or the plumbing breaks. They do not have an extra \$30 or \$40 or \$50 to pour into their gas tanks every week. But still gas prices go up, and families already stretched to the limit are stretched even further.

These Rhode Islanders and millions like them all across this country need help, and they need it now. They are looking to us in Congress for answers.

Last week, Congress passed legislation taking a key first step—shutting off the gush of oil flowing into the Strategic Petroleum Reserve. This massive stockpile of crude oil owned by the Federal Government, maintained in the event of a disruption in fuel sup-

plies or other such emergency, has a capacity of 727 million barrels of oil. Right now, the Strategic Petroleum Reserve is about 97 percent full. Yet the Bush administration continues to pump between 70,000 and 80,000 barrels of oil every day into massive underground caverns. Unsurprisingly, the administration actually wants to double the size of the Strategic Petroleum Reserve to 1.5 billion barrels, even as millions of Americans struggle with record fuel prices. Amazing. At a time when American families are cutting back on food and other necessities in order to fill their gas tank, President Bush wants to reduce the supply of oil into the open market, jack up the cost of fuel, and further line the pockets of the big oil companies. With the price of gas hitting nearly \$4 a gallon, those 70,000 to 80,000 barrels should flow into the market, not into the ground. And let's not forget that at today's price of over \$129 a barrel—a new record price for crude oil as of this morning—pouring oil into the Strategic Petroleum Reserve costs our Government millions of our precious tax dollars every day.

There are a number of things we can do right now to help provide some short-term relief at the pump. I have cosponsored our majority leader Senator REID's Consumer First Energy Act, a plan that gets at some of the immediate root causes of these staggeringly high prices.

First, we must take steps to protect American consumers from market speculation and price gouging. The administration's failure to regulate the oil futures market has left it fertile ground for speculators who game that market to reap high payoffs for themselves, while consumers pay the price.

Commodities traders take advantage of lax margin requirements that allow them to buy oil futures for only 5 to 7 cents on the dollar rather than the 50-percent downpayment required for purchases of stock futures. Many experts have pointed to rampant speculation as one of the principal reasons for the inflated price of crude oil in the market.

The Consumer First Energy Act would prevent traders of U.S. crude oil from routing transactions overseas to evade our limits on speculation, and it would require the Commodity Futures Trading Commission to substantially increase the margin requirement for oil futures trading.

I particularly applaud my colleague from the State of Washington, Senator CANTWELL, for her leadership in calling for an oil and gas market task force to investigate irregularities in the price of energy.

Our bill would also prevent price gouging by giving the President the authority to declare an energy emergency in cases of supply disruption, shortage, or significant price anomalies in the market. Once such an emergency has been declared, it would be unlawful to set an "unconscionably excessive price" for gasoline. The Federal Trade Commission would have the authority

to enforce this provision while State attorneys general would have new authority to bring civil actions against price gougers at home.

Outside our borders, we need to make it clear to oil-producing countries that colluding to fix the price of oil will not be tolerated. The Bush administration has failed to stand up to the nations that control the price of crude oil—nations such as Saudi Arabia, Iran, Nigeria, Venezuela, and others that do not have America's best interests at heart. OPEC nations, which produce about a third of the world's oil supply, stubbornly refuse to produce more oil to curb the rising prices, and now OPEC has said the price of a barrel of oil could reach \$200 this year.

With the American family now spending 10 percent of their income on gasoline, we cannot afford to let OPEC continue to manipulate world oil markets. Our plan makes it clear that colluding to fix the price of oil is illegal under U.S. law. The Consumer First Energy Act gives the Attorney General of the United States the power to bring an enforcement action against any company or country engaging in such conduct.

Finally, we need to turn the tables on the big oil companies, which now pocket not only record-breaking profits but huge taxpayer-funded subsidies that they just do not need.

As this chart shows, the dollars we pay at the gas pump flow right into big oil's pockets. Last year alone, the five biggest oil companies—ExxonMobil, Royal Dutch Shell, BP, Chevron, and ConocoPhillips—made \$116 billion in profits. That is almost twice the entire budget of the U.S. Department of Transportation. Imagine if we were spending twice as much on our roads and bridges and public transit systems. ExxonMobil alone earned \$40.6 billion last year—more than the entire Federal Highway Administration budget for 2007 and almost as much as the profits of the entire American credit card industry. Isn't it telling that as American families have struggled with the highest fuel costs in a generation, the biggest oil companies have celebrated record-breaking profits? As our Nation slides deeper into recession, the oil companies' profits keep going up.

While the oil companies are gorged with profit, stuffed with profit, choking on profit, the Bush administration and their Republican friends in Congress insist on funneling to them huge tax breaks. With profits exceeding \$116 billion last year alone, I cannot think of a single industry that needs extra money less than big oil, especially when that industry still resists making major investments in new technology or renewable fuels.

The Consumer First Energy Act will eliminate \$17 billion in tax breaks for oil and gas companies and reallocate those tax dollars to renewable energy and new energy efficiency technology and would also create a 25-percent windfall profits tax on oil companies

that do not invest in increased capacity and renewable energy sources. If they will not use their obscene profits to invest in America's energy future, well, we will have to, and we will.

We know this is short-term action. We know we need to liberate ourselves from our dependence on oil with new energy sources and technologies. We know we need something along the lines of a new Manhattan Project or a new Apollo project. It is a matter of national urgency. But the American people need action now. We cannot stand by as millions of families struggle under the weight of skyrocketing gas prices. For the woman walking home from work in the rain, for the man on the bus to his doctor, for the student hoping one day for a hybrid car, for the families going without food because they cannot buy gas, we must take action.

I urge my colleagues to support legislation to ease Americans' pain at the pump.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

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#### EXECUTIVE SESSION

NOMINATIONS OF MICHAEL G. MCGINN TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MINNESOTA, RALPH E. MARTINEZ TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES, AND G. STEVEN AGEE TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH DISTRICT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The legislative clerk read the nominations of Michael G. McGinn, of Minnesota, to be United States Marshal for the District of Minnesota; Ralph E. Martinez, of Florida, to be a Member of the Foreign Claims Settlement Commission of the United States; and G. Steven Agee, of Virginia, to be United States Circuit Judge for the Fourth Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, the

time until 12:30 shall be equally divided and controlled between the chairman and ranking member or their designees.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, the Senate continues to make progress by confirming another lifetime appointment to one of our important Federal circuit courts. The circuit court nomination we consider today is that of Justice G. Steven Agee of Virginia.

His nomination to a long-vacant circuit court seat is the result of a breakthrough with the White House. Even more important, it fills a vacancy listed as a judicial emergency on the U.S. Court of Appeals for the Fourth Circuit. I commend the Senators from Virginia, Senator WARNER and Senator WEBB, for their work in bringing this forward. It was a bipartisan exercise on their part. I thank Senator CARDIN of Maryland for taking the time to chair the hearing on this nomination.

It is interesting that Judge Agee's nomination gives us an opportunity to be productive even in a Presidential election year, where following normal history we tend to be far less productive.

There has been a string of controversial nominations from Virginia. Until recently, President Bush had insisted on confrontation with the Senate by nominating Jim Haynes, who contributed to the torture memos, Claude Allen, and Duncan Getchell. I think he became aware they were not going to go anywhere.

When Republicans come to the Senate to discuss the pace at which we are considering judicial nominations, I am almost amused watching them because something is always wrong. It is sort of like Goldilocks. It is kind of like Goldilocks in the fairly tale—the porridge is too hot; the porridge is too cold. When I schedule hearings and even break into my recess where I should be in Vermont and come back because they are so insistent that they need to have hearings on this, and I come back and hold a hearing for nominees of President Bush, oh, golly, I am moving too quickly. They have actually criticized me for doing that. Of course, if we slow the pace down, well, then we are criticized for moving too slowly. I was thinking of that situation when I was reading "Goldilocks" to one of my grandchildren the other night. Of course, "Goldilocks" is a child's story, and they should not play childish games here.

One thing has been apparent from the outset of the year: My friends on the Republican side hope that by ignoring their own history—pocket filibustering more than 60 of President Clinton's judicial nominations while they were in the majority—that somehow they can rewrite history.

Democrats, to their credit, have not retaliated. I think of pocket filibustering 60 of President Clinton's nominees. But they say, after voting one of

those 60 out of committee, they allowed him to come to a vote on this floor. This was a very prominent African-American justice of the Missouri Supreme Court, who later became chief justice. It is obvious why they let this African-American justice come to a vote on the floor of the Senate. Every single Republican, including those Republicans who had voted for him in the Senate Judiciary Committee, came on the floor in a humiliating gesture and voted down his confirmation. It was one of the low marks of this body.

As I said, we have not retaliated. But also the Democratic majority has a responsibility not to push through the confirmation process nominations who are there simply to advance a political agenda instead of there to maintain the impartiality of our Federal judiciary.

In fact, in contrast with the Republican Senate majority that more than doubled circuit court vacancies during the Clinton administration, we have reduced vacancies by nearly two-thirds. We have reduced them in nearly every circuit during the Bush administration. With the confirmation of Steven Agee today, the Fourth Circuit will have fewer vacancies than at the end of the Clinton administration, and that, of course, was when the Senate Republican majority pocket filibustered five Fourth Circuit nominees. In fact, they refused to consider any Fourth Circuit nominees during the last 2 years of President Clinton's Presidency.

Today, we will reduce vacancies among the 13 Federal circuit courts throughout the country to 11. That, incidentally, is the lowest number of vacancies in more than a decade. When Republican Senators are ready to allow us to consider and confirm the President's nominations to fill the last two remaining vacancies on the Sixth Circuit, if Republicans will allow us to go forward with President Bush's nominees there, we can reduce the total number of circuit court vacancies to single digits for the first time in decades. So for all the smoke and mirrors on the other side, the fact remains that we have succeeded in lowering circuit court vacancies to a historically low level.

Let's take a moment and go to the charts. These are circuit court vacancies. For most of the time when President Clinton was President, the Republicans were in charge. Look what they did. By their use of pocket filibusters, they pushed the number of vacancies in the circuit courts from 16 up to 32. Were there nominees for those seats? Of course there were, but they were pocket filibustered.

I use one example, one nomination that was pocket filibustered: Well, we don't know if she is really qualified. She is now the dean of the Harvard Law School, the most prestigious law school in this country.

When we came in halfway through the first year of President Bush's term, people thought that maybe the Demo-

crats might retaliate and do the same thing to him. We did just the opposite. We started bringing down the number of circuit court vacancies, and we continued. When I became chairman for the first time, in the summer of 2001, we quickly and dramatically lowered vacancies. We confirmed 100 nominations in only 17 months. We set an all-time record for the Senate being controlled by one party and the Presidency by another. We confirmed 100 nominations in only 17 months. That was with an uncooperative White House. And we reduced vacancies by 45 percent.

Look at the numbers. Look how the vacancies went up when the Republicans were in charge with a Democratic President, and when Democrats were in charge with a Republican President, they came down. It is the Democratic Senate majority that has worked hard to lower them in this Congress. We have gone from more than 110 vacancies to less than 50. We have reversed course from the days when the Republican Senate majority more than doubled circuit vacancies. We have lowered the circuit court vacancies that existed when I became chairman of the Judiciary Committee in the summer of 2001—32 vacancies—we lowered them to 12. Today, we lower it to 11. Of the 178 authorized circuit court judgeships, after today's confirmation, only 11 will remain vacant. We took the vacancy rate Republicans gave us of 18 percent and brought it down to 6 percent. With 166 active appellate judges and 104 senior status judges serving on the Federal courts of appeals, there are 270 circuit court judges. I think that is the most in our history.

In fact, our work has led to a reduction in vacancies in nearly every circuit. Both the Second and Fifth Circuits had circuit-wide emergencies due to the multiple simultaneous vacancies during the Clinton years with Republicans in control of the Senate. Both the Second Circuit and the Fifth Circuit now are without a single vacancy. We have already succeeded in lowering vacancies in the Second Circuit, the Fifth Circuit, the Sixth Circuit, the Eighth Circuit, the Ninth Circuit, the Tenth Circuit, the Eleventh Circuit, the DC Circuit and the Federal Circuit. With the confirmation of Justice Agee, the Fourth Circuit will join that list. Circuits with no current vacancies include the Seventh Circuit, the Eighth Circuit, the Tenth Circuit, the Eleventh Circuit and the Federal Circuit. When we are allowed to proceed with President Bush's nominations of Judge White and Ray Kethledge to the Sixth Circuit, it will join that list of Federal circuits without a single vacancy.

Less than 2 weeks ago, President Bush nominated Judge Glen E. Conrad to the second and final Virginia vacancy on the Fourth Circuit. With the support of Senator WARNER and Senator WEBB, we may still have time this year to proceed to that nomination and

resolve another longstanding vacancy, further reducing vacancies on the Fourth Circuit and on Federal circuit courts in general.

I remain determined to prioritize progress and focus the Judiciary Committee on those nominations on which we can make progress and, in particular, on those in which the White House has finally begun to work with the Senate.

However, when I tried to expedite consideration of two Sixth Circuit nominations of President Bush's this month, all I got was criticism from the Republican side of the aisle. In fact, at the hearing on May 7, Republican Senators all but attacked one of the President's nominees. Senator BROWBACK publicly apologized for his actions at the hearing, and I commend him for doing so. His apology was in the best tradition of the Senate.

Of course, last Wednesday, the same Republicans who were saying hurry up with these nominees sent scores of time-consuming questions to the nominees, all but ensuring the nominees cannot be considered this month. We will not hear them until they answer the questions. We will get the ABA reports.

Disputes over a handful of controversial judicial nominations have wasted valuable time that could be spent on the real priorities of every American. I have sought, instead, to make progress where we can. The result is the significant reduction in judicial vacancies. By turning today to the Agee nomination, we can make additional progress.

The alternative is to risk becoming embroiled in contentious debates for months and thereby foreclose the opportunity to make progress where we can. The most recent controversial Bush judicial nomination took 5½ months of debate after a hearing before Senate action was possible. We also saw what happened during the last several months of the last Congress, which was not even a Presidential election year. There were many hearings on many controversial nominations. That resulted in a great deal of effort and conflict but not in as many confirmations as might have been achieved. I prefer to make progress where we can and to work together to do so.

I am sure there are some who prefer partisan fights designed to energize a political base during an election year, but I do not. I am determined to prioritize progress, not politics, and focus the committee on those nominations on which we can make progress. The Republican Senate majority during the last 5 years of the Clinton administration more than doubled vacancies on our Nation's circuit courts, as they rose from 12 to 26. Those circuit vacancies grew to 32 during the transition to the Bush administration. The statistics are worth repeating: we have been able to reverse that trend and reduce circuit vacancies by almost two-thirds. Today there are fewer circuit court vacancies than at any time since

the 1996 session. In fact, our work has led to a reduction in vacancies in nearly every circuit. We are heading toward reducing circuit court vacancies to single digits for the first time in decades.

I have been speaking during the last several weeks about the progress we are making in repairing the terrible damage done to the confirmation process and about our progress in reducing judicial vacancies.

We can do a number of things. We can work as the White House finally did after three strikes; they finally worked with the Senators from Virginia, and we have a circuit court of appeals judge going through. There are other circuits where they could do the same thing, work with Republican Senators, work with Democratic Senators, and they could get them through. If they want to simply continue and have judges who are obviously nominated to carry out a political agenda, obviously nominated to politicize the Federal court, these people are not going to go through. What a waste of time. Why not realize that the American people do not want judicial nominations rooted in partisan politics? They want Federal judges who understand the importance of an independent judiciary. Our independent courts are a source of America's strength, endurance, and stability. Our judicial system has been the envy of the world. The American people expect the Federal courts to be impartial forums where justice is dispensed without favor to the right or the left or to any political party or faction. The only lifetime appointments in our government, these nominations matter a great deal. The Federal judiciary is the one arm of our government that should never be political or politicized, regardless of who sits in the White House.

With the Agee confirmation today, the sixth so far this year and the second circuit court confirmation, the Senate is ahead of the pace the Republican Senate majority established during the 1996 session, a Presidential election year, in which no judicial nominations were considered or confirmed by the Senate before July. That is right—today we stand six confirmations, including two circuit court confirmations, ahead of the pace Republicans set in the 1996 session. In fact, with the Agee confirmation we are already two circuit court confirmations beyond the total the Republican Senate majority allowed for that entire session, when they refused to proceed on any circuit court nominations.

So today we demonstrate progress about which I have been speaking and on which I have been working. I continue in this Congress and I will continue with the new President in the next Congress to work with Senators from both sides of the aisle to guarantee we have nonpartisan judges.

Justice Agee has 7 years of judicial experience on the State bench as a Justice on the Supreme Court of Virginia and a former judge on the Court of Ap-

peals of Virginia. For more than 20 years prior to his judicial service, Justice Agee worked in private practice in the Commonwealth of Virginia. He was elected by the people of Virginia as a Delegate to the Virginia General Assembly where he served for over a decade. Justice Agee graduated from Bridgewater College with a B.A. and he received his J.D. from the University of Virginia School of Law. He received an L.L.M. degree in taxation from New York University School of Law.

I congratulate Justice Agee and his family on his confirmation today, and I look forward to making further progress by working together on judicial nominations.

The Virginia and Michigan vacancies on the Fourth and Sixth Circuits, respectively, have proven a great challenge. I want to commend Senator WARNER and Senator WEBB, and Senator LEVIN and Senator STABENOW for working to end these impasses. I have urged the President to work with the Virginia and Michigan Senators and, after several years, he finally has. During the last 3 months, our extensive efforts culminated in significant developments that can lead to filling two Virginia vacancies on the Fourth Circuit and two Michigan vacancies on the Sixth Circuit, three of which have been classified as judicial emergencies.

This accomplishment stands in sharp contrast to the actions of Senate Republicans who refused to consider any of the highly qualified nominations to the Fourth Circuit Court of Appeals during the last 3 years of the Clinton administration or to consider any of the highly qualified nominations to the Sixth Circuit Court of Appeals during the last 2 years of the Clinton administration. The Republican Senate majority left open five vacancies on the Fourth Circuit and four on the Sixth Circuit at the end of the Clinton administration.

The Fourth Circuit is a good example of how much time and effort we have wasted on controversial nominations by President Bush. For example, there was the highly controversial and failed nomination of William "Jim" Haynes II to the Fourth Circuit. As General Counsel at the Department of Defense, he was the architect of many discredited policies on detainee treatment, military tribunals, and torture. Mr. Haynes never fulfilled the pledge he made to me under oath at his hearing to supply the materials he discussed in an extended opening statement regarding his role in developing these policies and their legal justifications.

The Haynes nomination led the Richmond Times-Dispatch to write an editorial in late 2006 entitled "No Vacancies," about the President's counterproductive approach to nominations in the Fourth Circuit. The editorial criticized the administration for pursuing political fights at the expense of filling vacancies. According to the Times-Dispatch, "The president erred by renominating . . . and may be squandering his

opportunity to fill numerous other vacancies with judges of right reason."

The Times-Dispatch editorial focused on the renomination of Mr. Haynes, but could just as easily have been written about other controversial Fourth Circuit nominees.

The President insisted on nominating and renominating Terrence Boyle over the course of 6 years to a North Carolina vacancy on the Fourth Circuit. This despite the fact that as a sitting U.S. district judge and while a circuit court nominee, Judge Boyle ruled on multiple cases involving corporations in which he held investments.

The President should have heeded the call of North Carolina Police Benevolent Association, the North Carolina Troopers' Association, the Police Benevolent Associations from South Carolina and Virginia, the National Association of Police Organizations, the Professional Fire Fighters and Paramedics of North Carolina, as well as the advice of Senator JOHN EDWARDS. Law enforcement officers from North Carolina and across the country opposed the nomination. Civil rights groups opposed the nomination. Those knowledgeable and respectful of judicial ethics opposed the nomination. This President persisted for 6 years before withdrawing the Boyle nomination.

I mention these ill-advised nominations because so many Republican partisans seem to have forgotten this recent history and why there are continuing vacancies on the Fourth Circuit. The efforts and years wasted on President Bush's controversial nominations followed in the wake of the Republican Senate majority's refusal to consider any of President Clinton's Fourth Circuit nominees. All four nominees from North Carolina to the Fourth Circuit were blocked from consideration by the Republican Senate majority. These outstanding nominees included U.S. District Court Judge James Beaty, Jr., U.S. Bankruptcy Judge J. Richard Leonard, North Carolina Court of Appeals Judge James Wynn, and Professor Elizabeth Gibson. The failure to proceed on these nominations has yet to be explained. Had either Judge Beaty or Judge Wynn been considered and confirmed, he would have been the first African-American judge appointed to the Fourth Circuit.

In contrast, I worked with Senator EDWARDS to break through the impasse and to confirm Judge Allyson Duncan of North Carolina to the Fourth Circuit when President Bush nominated her. I worked to reduce Federal judicial vacancies in North Carolina by confirming three judges last year Judge Schroeder, Judge Reidinger and Judge Osteen. Previously during the Bush administration, I cooperated in the confirmation of Judge Whitney, Judge Conrad, Judge Dever, Judge McKnight, and Judge Flanagan. That totals nine Federal judges in North Carolina, including a Fourth Circuit judge, during

the Bush Presidency. By contrast, during the entire eight years of the Clinton administration, only one district court judge was allowed to be confirmed in North Carolina.

We have also made progress in South Carolina. Senator GRAHAM follows Senator Thurmond as South Carolina's representative on the Judiciary Committee. Despite the controversy that accompanied the nomination of Judge Dennis Shedd, and my own opposition to it, I presided as chairman when we considered that nomination and when the Senate granted its consent. I also presided over consideration of the nomination of Terry Wooten. More recently, we acted favorably on the nominations of Harvey Floyd and Robert Bryan Harwell.

While I chaired the Senate Judiciary Committee from the summer of 2001 to the end of 2002, I presided over the consideration and confirmation of three Fourth Circuit judges nominated by President Bush. All together, President Bush has already appointed five judges to the Fourth Circuit. By contrast, President Clinton was allowed by Senate Republicans to appoint three and left office with five vacancies existing on that court.

Of course, during the Clinton administration, Republican Senators argued that the Fourth Circuit vacancies did not need to be filled because the Fourth Circuit had the fastest docket time to disposition in the country. If the Agee nomination is confirmed, as I expect it will be, the Fourth Circuit will have fewer vacancies than it did when Republicans claimed no more judges were needed.

Judge Agee will succeed Judge Michael Luttig, who retired a few years ago to take a more lucrative position in the private sector. Judge Luttig was known as a very conservative judge on the Fourth Circuit. He was involved in the Padilla case a few years ago and condemned the shifting legal positions of the Bush administration in that case involving an American citizen. He noted that the Bush administration's maneuvering had consequences "not only for the public perception of the war on terror but also for the government's credibility before the courts in litigation ancillary to that war." Judge Luttig went on to note that the administration's behavior in "yield[ing] to expediency" left an impression that "may ultimately prove to be [at] substantial cost to the government's credibility." In those independent observations, Judge Luttig performed a public service.

I have likewise urged the President to work with the Michigan Senators, and, after 7 years, he finally has. Last month, our extensive efforts culminated in a significant development that, unless partisanship interferes, can lead to filling the last two vacancies on the Sixth Circuit before this year ends. This accomplishment stands in sharp contrast to the actions of Senate Republicans who refused to con-

sider any nomination to the Sixth Circuit Court of Appeals during the last 3 years of the Clinton administration. Ultimately, the Republican-led Senate left open four vacancies on that circuit.

Mine has been a different approach and one that has led to significant progress. I am glad to see that progress continue today with our confirmation of the nomination of Justice G. Steven Agee of Virginia to the U.S. Court of Appeals for the Fourth Circuit.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the nomination of Justice Steven Agee is pending for the Court of Appeals for the Fourth Circuit. Justice Agee has an outstanding record; he has been a judge on the Court of Appeals for Virginia for 2 years, from 2001 to 2003, and a Justice on the Supreme Court from 2003 until the present time.

The record of Michael G. McGinn, to be a U.S. Marshal for the district of Minnesota, is also outstanding.

The record of Ralph Eduardo Martinez, to be a Commissioner for the Foreign Claims Settlement Commission, also exceptional, is notable in part because his brother is Senator MEL MARTINEZ.

I ask unanimous consent that their resumes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MICHAEL G. MCGINN

UNITED STATES MARSHAL, DISTRICT OF MINNESOTA

Birth: 1947; St. Paul, Minnesota.

Legal Residence: Minnesota.

Education: B.A., University of St. Thomas, 1979.

Experience: St. Paul Police Department, St. Paul, Minnesota, 1968–1998; Police Officer, 1968–1975; Sergeant, 1975–1980; Lieutenant, 1980–1984; Captain, 1984–1992; Commander, 1992–1998. Independent Contractor, McGinn & Associates, 1999. State Senator, Minnesota State Senate, 2003–2006; Assistant Minority Leader, 2005–2006.

Selected Activities: Board Member, Boys & Girls Club of St. Paul, 1997–1998. Board Member, St. Paul Police Foundation, 2006–Present. Board Member, Minnesota State Board of Public Defense, 2007–present.

Honors & Awards: Team Achievement Award, City of St. Paul, 1995. Outstanding Legislator, Minneapolis Police Federation, 2004. Seven Department Letters of Commendation. Eight Unit Citations.

RAFAEL (RALPH) EDUARDO MARTINEZ

COMMISSIONER, FOREIGN CLAIMS SETTLEMENT COMMISSION

Birth: 1950; Sagua La Grande, Villa Clara, Cuba.

Legal Residence: Florida.

Education: J.D., Florida State University College of Law, 1976. B.S., University of Florida, 1973.

Employment: Attorney, Gurney, Gurney & Handley, 1976–1981. Shareholder, McEwan, Martinez & Dukes, PA, 1981–Present. Chairman, CNL Bank, 2003–Present.

Selected Activities: U.S. Public Delegate to the 57th UN General Assembly, 2003. Board

of Trustees, University of Richmond, 2003–2007.

Honors & Awards: Award of Merit, Orange County Bar Association, 1991, 1992. "John Sterchi" Lifetime Achievement Award, Central Florida YMCA, 2000.

G. STEVEN AGEE

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Birth: 1952, Roanoke, Virginia.

Legal Residence: Virginia.

Education: B.A., Bridgewater College, 1974. J.D., University of Virginia School of Law, 1977. LL.M., New York University School of Law, 1978.

Employment: Associate, Martin, Hopkins & Lemon, P.C., 1977–1979. Associate, Rocovich & Dechow, P.C., 1979–1980. Shareholder, Osterhoudt, Ferguson, Natt, Aheron and Agee, P.C., 1980–2000. Member, Virginia House of Delegates, 1982–1994. Judge, Court of Appeals of Virginia, 2001–2003. Justice, Supreme Court of Virginia, 2003–Present.

Military Service: United States Army Reserve, Judge Advocate General's Corps, 1986–1997.

Selected Activities: Member, Virginia Criminal Sentencing Commission, 1997–2000. Board of Trustees, Bridgewater College, 1988–Present. Member, Salem Rotary Club, 1984–Present; Board of Directors, 1995–1996. Board of Directors, Bradley Free Clinic, 1988–Present. Recipient, Outstanding Legislator Award, Virginia Chamber of Commerce, 1993. Recipient, Outstanding Young Alumnus Award, Bridgewater College, 1986. Member, Virginia State Bar, 1977–Present; Member, Board of Governors, Education of Lawyers Section, 2007–Present. Member, St. Paul's Episcopal Church, 1995–Present; Member of Vestry, 1998–2000.

ABA Rating: Unanimous "Well Qualified".

Mr. SPECTER. Mr. President, I will use the balance of my time on the pending issue to discuss the agreement made between the Democratic and Republican leaders to have three circuit judges confirmed before Memorial Day. The concerns, which I expressed at some length yesterday, but will summarize very briefly today, are that there simply has been insufficient time to process the nominees the majority chose according to standard Committee procedures. I refer specifically to the nomination of Michigan Court of Appeals Judge, Helene White, who was nominated on April 15, with only 22 days elapsing between the time of her nomination and her hearing.

The average time between a circuit court nominee's nomination and hearing has been 162 days during the Bush presidency. When a hearing was scheduled for Peter Keisler 33 days after his nomination, there was an objection made by all of the Democratic Senators on the Committee. This happened in 2006. At Mr. Keisler's hearing Senator SCHUMER had this to say:

Let me reiterate some of the concerns we expressed about proceeding so hastily on this nomination. First, we barely had time to consider the nominee's record. Mr. Keisler was named to the seat 33 days ago, so we are having this hearing with astonishing and inexplicable speed. The average time for a nomination to hearing for the last seven nominees to that court is several times that long.

Well, the nomination of Peter Keisler was much easier with respect to the

pending record than the record for Judge White who has been on the bench for many years.

First, an issue arose with Judge White because her questionnaire was incomplete. For example, she did not provide reversed opinions that had not been published, as required. During the course of the hearing, there was considerable concern about what Judge White had done while sitting on the Michigan court with respect to the soundness of her judicial scholarship. Then, yesterday, an objection was raised by Senator REID that so many questions were submitted for Judge White. However, the fact is, the number of questions is relatively modest by comparison—73 questions for Judge White. Last year, Judge Jennifer Elrod, nominee to the Fifth Circuit, had 108 questions submitted by the Democrats. Last year, Judge Leslie Southwick had 80 questions submitted by Democrats. Grace Becker, a nominee for the Department of Justice, Civil Rights Division, had 250 questions submitted by the Democrats. These are just a few examples. So the number Judge White received is relatively modest in comparison to others.

Next, you have the situation that there is the absence of the report of the American Bar Association, which is still not in on Judge White, and is not expected until the end of the month.

It is unprecedented to have a hearing on a circuit judge without having the ABA report in hand—absolutely unprecedented.

Yesterday, I spoke at some length about the importance of a court of appeals judge. The courts of appeals are the last appeal before the Supreme Court, meaning that in virtually all of their cases, their decisions are final. If there is a 2-to-1 decision and Judge White is one of the two in the majority, then that is the law, and it has very profound effects. So, it is a very serious obligation of the Senate, under our constitutional responsibility, to advise and consent, and to be sure we take adequate time for deliberation on the matter.

The concern that I expressed yesterday, and will comment on very briefly today, is that there were other nominees waiting who could have been processed in this time without this rush to judgment and without this unprecedented practice. For example, Peter Keisler has had a hearing and has been waiting over 690 days for a committee vote. He could have been processed without this rush to judgment. Judge Conrad has been waiting for 308 days for a hearing and could have been processed without this rush to judgment. Steven Matthews has been waiting 257 days and could have been processed without this rush to judgment.

There were ample nominees available. The majority did not have to proceed with Judge White's nomination. Yesterday, the Senator from Nevada commented that nobody presumed to tell ARLEN SPECTER, when I was chair-

man of the Judiciary Committee, what the scheduling should be or what the order of business should be. But, as I pointed out at some length yesterday, the White House wanted to have the hearing on Chief Justice Roberts starting in August of 2005. I consulted with Senator LEAHY in advance. He objected to it. I thought he was right. I, frankly, thought he was right in advance of consulting him, but I still consulted him. The hearing didn't start until September. Similarly, the White House wanted to have the hearing of Justice Alito concluded before Christmas. I consulted with Senator LEAHY again, and Justice Alito's hearing started in January. Later, the President told me personally that he thought my judgment was right.

The point I raise is—there was always consultation when I was chairman. But, on these matters, regrettably, there has been none. It is still my hope that we will be able to find some way through this morass. Senator LEAHY and I have had a very good record of working on a bipartisan basis. It is my hope that we will establish a protocol for consideration of judicial nominees that so many days after a nomination, there will be a hearing, then so many days later, there will be action by the Judiciary Committee, and then so many days later, there will be floor action. That protocol would prevent this morass, which has engulfed this Senate. I look forward to working with Senator LEAHY to accomplish that.

On the state of the record, I feel constrained to say that the facts speak for themselves. Processing Judge White in this manner, breaking all of the precedents and rules, is simply not the way to conduct the business of the Senate. The deal could have been completed with the other nominees who are waiting in the wings. That is the way the Senate ought to function.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I yield myself 3 minutes.

First, let me express my support for Judge Agee's confirmation. I had the opportunity to chair Judge Agee's confirmation hearing. I thank Senator WARNER and Senator WEBB for the manner in which they worked with the White House to get an appointment that could go through the confirmation process, and one which I hope my colleagues will support.

I support Judge Agee because of his experience. I am pleased he has legislative experience. I think that will help him on the court. He respects the rule of law and precedents, and he believes in the independence of the judiciary. He has expressed concerns at times with political interference within the judicial branch of Government. I think he is well qualified to be confirmed to the circuit court.

Let me comment very briefly on the comment made by my colleague, Sen-

ator SPECTER. Let me point out that Judge White was first appointed on January 7, 1997. She then waited 4 years for action in this body and received none because of being held up by the Republicans. So when we say we are "rushing to judgment," I think waiting 4 years without any action is not rushing to judgment. It seems as though the majority leadership is being criticized at times for moving too fast and also too slow. You cannot have it both ways.

In regard to circuit court appointments, there have been three I have opposed—two because of lack of experience, and one because of his record. I was joined by other Members who opposed those nominations. None of us sought to delay those confirmation votes. In fact, on one, the Republican leadership asked that we hold the confirmation vote in committee until they could get some more support.

So I think you should be judged by the record. Let me point out the record very clearly. If you look at the record on vacancies in circuit courts, starting with President Clinton, there was 17. At the end of his term, it grew to 32. The record by the Democrats has been consistent to reduce that so that we now have 12 vacancies. I think the record speaks for itself.

Obviously, we want to get as many judges confirmed as possible. I hope we can work in a bipartisan manner to make sure these vacancies are filled. If the White House would work with the local Senators and with us, I think we can get more confirmations to our circuit courts.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

#### LEGISLATIVE SESSION

Mr. SCHUMER. Mr. President, I ask unanimous consent the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### FAIR CREDIT REPORTING ACT AMENDMENTS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4008, which was received from the House.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4008) to amend the Fair Credit Reporting Act to make technical corrections to the definition of willful noncompliance with respect to violations involving the printing of an expiration date on certain credit and debit card receipts before the date of the enactment of this Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the bill be

read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (H.R. 4008) was ordered to a third reading, was read the third time, and passed.

Mr. SCHUMER. Mr. President, I am glad we have just passed H.R. 4008. I thank all of my colleagues and Representative MAHONEY in the House, who authored the Credit and Debt Card Receipt Clarification Act. I introduced an identical bill on the Senate side, which was S. 2978. The House passed this bill last week by the unanimous vote of 407 to 0.

H.R. 4008 is a narrow, commonsense bill that will smooth the transition to new rules for printing credit card receipts under the Fair and Accurate Credit Transaction Act, or FACTA.

FACTA says the credit card receipts can only display one of two things: either the last five digits of the credit card account number or the expiration date.

Unfortunately, the law was not as clear as it could have been, and many companies misunderstood this requirement. They redacted account numbers in order to comply with FACTA but mistakenly left expiration dates in place.

But unlike the State laws after which it is modeled, FACTA is tied to a statutory damages provision that sparked the filing of hundreds of class action lawsuits against companies whose sole error was printing expiration dates on receipts.

Let's be clear. These lawsuits are not alleging that consumers were harmed in any way. I will repeat that. The lawsuits are not alleging that consumers were harmed in any way. In fact, experts on identity theft will tell you that printing the expiration date doesn't present any risk of fraud or identity theft, as long as the account number is truncated.

Yet companies are facing sky-high liability of up to \$1,000 per receipt. Some of them are large retail businesses; most of them are small mom-and-pop stores. The damages in these cases are so huge that judges have refused to certify class actions because the lawsuits could actually destroy the companies—small and large.

The long list of defendants in these cases includes many major corporations—we have all heard of the hotels, restaurant chains, et cetera—as well as little mom-and-pop stores.

It is fair to say that these lawsuits will actually hurt consumers because companies will be forced to raise prices, or even close stores, in order to cover the cost of legal fees and expensive settlements. This is at a time when our economy and businesses—particularly those dealing with retail—are already struggling to rebound from tough times.

So the bill is a win-win proposition for everyone. It stops destructive lawsuits against companies that made a harmless error in the past, but it also ensures that consumers can still sue in any case where they were actually harmed.

Going forward, companies will still have to meet the same strict rules Congress originally passed in fact. I am glad the Senate was able to take quick action on this important bill.

#### EXECUTIVE SESSION

Mr. SCHUMER. Mr. President, I now ask unanimous consent that the Senate resume executive session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Florida.

Mr. MARTINEZ. Mr. President, I wish to speak on the executive business of the Senate. I am proud today to speak on behalf of my brother, Ralph Martinez, who has been nominated by the President.

The ACTING PRESIDENT pro tempore. The minority has no time remaining.

Mr. MARTINEZ. Mr. President, I ask unanimous consent that I be allowed 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MARTINEZ. Mr. President, my brother, Ralph Martinez, has been nominated by the President to be a member of the Foreign Claims Settlement Commission of the United States.

I am extremely proud of Ralph. He is someone, such as myself, who has adopted this country as his own and who, after the struggles of all immigrants, succeeded in life. He is the proud father of three wonderful children and has raised a wonderful family. He also has excelled in the practice of law in central Florida. I am delighted he is going to have an opportunity to serve this Nation in this very important capacity.

I am also delighted to thank Leader REID and Leader MCCONNELL for expediting his confirmation, as well as Chairman LEAHY and Ranking Member SPECTER for their courtesies throughout this process for Ralph Martinez.

I know he will serve this Nation well. I am proud to second his nomination and urge the Senate to confirm him swiftly.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator withhold?

Mr. MARTINEZ. Yes.

#### RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

#### EXECUTIVE SESSION

NOMINATION OF MICHAEL G. MCGINN TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MINNESOTA, RALPH E. MARTINEZ TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES, AND G. STEVEN AGEE TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH DISTRICT—Continued

The PRESIDING OFFICER. Under the previous order, there will be 15 minutes equally divided and controlled between the senior Senator from Virginia, Mr. WARNER, and the junior Senator from Virginia, Mr. WEBB, or their designees.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I will take the time allotted on the Democratic side to Senator WEBB.

Mr. President, we have heard the sad news about our friend TED KENNEDY. Those of us who stood by his side know that there is no better ally and no more determined fighter. Now, as TED KENNEDY faces another great fight, we know he will bring the same courage and determination to the battle. We also know TED has spent his entire life caring for those in need. It is time for those of us who love TED and his family to care for them and join in prayer to give them strength.

Mr. President, at 2:30 we will consider the nomination of Steven Agee of Virginia to serve on the U.S. Court of Appeals for the Fourth Circuit. It is a lifetime appointment. He is a consensus nominee. Both Senators WARNER and WEBB support him. Of the 11 appellate court nominees pending before the Senate, only 6 can claim the same home State Senator support. That is one of the reasons some of them have been delayed. If we work more toward bipartisan consensus, more nominations would be approved.

Also, it is difficult to hear criticisms that these nominations have been delayed. The Republican minority has delayed so many bills and so many matters in this Congress, they have set a new record for filibusters and delay. That is a fact.

The Senate has confirmed 303 judges for lifetime appointments during the Bush Presidency. President Bush has had 86 percent of his judicial nominees confirmed; President Clinton, only 75 percent. When it comes to circuit court nominees, President Bush has even had a higher confirmation rate than President Clinton—71 percent to 57 percent. There has been no mistreatment here when it comes to the nominees sent to us by the Bush White House. Under

President Clinton, 61 judicial nominees were not even given the courtesy of a hearing and a vote.

One of the problems that faces the analysis on the Republican side is that there have been fewer judicial vacancies. President Clinton had 377 judges confirmed; President Reagan, 382, but at the present time, with the 303 already confirmed, if every vacancy were filled—every one of them—then President Bush would have fewer than President Clinton or President Reagan had confirmed. In other words, the fact that President Bush will have appointed fewer judges than his predecessors is a function of math, not political mischief.

Another complaint we have heard from my Republican colleagues is that we are moving on Sixth Circuit nominee Helene White ahead of three circuit court nominees whom they would prefer. Senator LEAHY, chairman of the Judiciary Committee, and the majority leader have already addressed this point, but I think the record should be abundantly clear. Helene White was originally nominated in January 1997 and was pending as a Clinton nominee for 1,532 days—over 4 years—until March 2001. You can even argue that she has been pending for over 11 years. So in terms of a place in line, she certainly deserves consideration for her patience.

I hope these battles will be resolved and resolved soon, but most importantly I hope they are resolved with good men and women who come to these lifetime appointments with the appropriate background and appropriate temperament to serve this Nation well. I hope the Senate will join on a bipartisan basis in approving this afternoon's pending nomination.

I reserve the remainder of my time.

Mr. WEBB. Mr. President, today it is my distinct pleasure to offer my support—along with my colleague, Senator WARNER—for the nomination of Justice G. Steven Agee to be a judge on the U.S. Court of Appeals for the Fourth Circuit.

Justice Agee is regarded as a jurist of superior intellect and judicial temperament who exhibits the highest degree of integrity and professionalism. After graduating law school, Justice Agee began his legal career as an associate with Martin, Hopkins & Lemon, 1977 to 1979. In 1979, Justice Agee joined Rocovich, Dechow, Parvin & Wilson, P.C., where he did additional work as an associate. From 1980 to 2000 Justice Agee was a shareholder and director with Osterhoudt, Ferguson, Natt, Aheron & Agee. In 2001, Justice Agee began serving as a judge on the Court of Appeals of Virginia and has been a justice on the Supreme Court of Virginia since 2003.

Justice Agee has unparalleled support from the entire legal community in the Commonwealth of Virginia. Justice Agee served for 12 years in the Virginia House of Delegates—1982 to 1994—and served as an appointed member of

the Virginia Criminal Sentencing Commission, 1997 to 2000. The ABA Standing Committee on the Federal Judiciary has rated Justice Agee “well qualified” to sit on the U.S. Court of Appeals for the Fourth Circuit. He is active in myriad community and civic organizations. Justice Agee received his B.A., magna cum laude, from Bridgewater College in 1974, his J.D. from the University of Virginia School of Law in 1977, and his L.L.M. in Taxation from New York University School of Law in 1978. He is married to Nancy Howell Agee, the chief operating officer and executive vice president of Carilion Clinic, and together they have one child.

I am acutely aware of the vitally important role that the Constitution assigns to the Senate in the advise and consent process related to Federal judges. Judgeships on our Nation's Circuit Courts of Appeal are critical to the American system of jurisprudence. Senator WARNER and I undertook a careful and deliberative process to find the most qualified nominees. Our collaborative process involved a thorough records review and rigorous interviews. We are of the opinion that Justice Agee not only met our high standards for selection but exceeded them. Justice Agee was on the joint list of recommended nominees that we submitted to President Bush last year. We are pleased that President Bush has chosen to respect our diligent bipartisan work.

I want to thank you for the opportunity to make these remarks about Justice Agee today and for the expeditious way the Senate has moved his nomination through the process during the 110th Congress. Again, it is with pride that I join Senator WARNER in commending Justice Agee to each of my colleagues in the Senate, and I ask my fellow Senators to vote to confirm his nomination to the U.S. Court of Appeals for the Fourth Circuit.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, how much time remains that is controlled by the Senator from Vermont?

The PRESIDING OFFICER. The Senator has 3 minutes 40 seconds remaining.

Mr. LEAHY. Mr. President, I yield myself 30 seconds.

I would note, in all these numbers, we Democrats have worked very hard to erase what was done by the Republicans when there was a Democratic President. They pocket filibustered over 60 of President Clinton's nominees. They let one go through—actually voted for him in committee, one of the most distinguished African-American jurists in this country. Then, in lockstep, every single Republican voted against him—a humiliation for him. He went on to become chief justice of the Missouri Supreme Court.

We have not done that.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WARNER. Mr. President, I rise to express my strong support for an extraordinary nominee to the federal bench. I welcome the opportunity today to vote in favor of confirmation for the Honorable G. Steven Agee to a seat on the U.S. Court of Appeals for the Fourth Circuit.

Justice Agee currently serves with distinction on the Supreme Court of Virginia. It was my privilege to introduce him to the Senate Judiciary Committee on May 1, and, as I expressed to the committee, Justice Agee's qualifications to serve on the Fourth Circuit are as impressive as any circuit court nominee for whom I have voted in my 30 years in the Senate.

Further, I am pleased to note that the American Bar Association concurs with my assessment of this nominee. The ABA gave Justice Agee its highest recommendation: unanimously well-qualified.

Justice Agee's nomination is a product of a collaborative process between the administration and Virginia's two U.S. Senators. In early 2007, Senator WEBB and I personally, extensively interviewed more than a dozen individuals to serve on the Fourth Circuit, and ultimately, in June 2007, we submitted to the President a list of five individuals that both of us would strongly support for confirmation. Justice Agee was one of those five individuals.

A magna cum laude graduate of Bridgewater College in Virginia, Steve Agee subsequently earned his law degree from the University of Virginia School of Law and an L.L.M. in Taxation from New York University. For the past 30 years, he has been engaged in the Virginia legal community as either a practicing lawyer or as a jurist.

In addition to his remarkable legal career, Justice Agee has been actively engaged in public service through the military, elected office, the state bench, and other civic and volunteer causes.

For 11 years during his career in private practice, he served in the U.S. Army Reserve, Judge Advocate General Corps, completing his service at the rank of major in 1997.

From 1982 to 1994, Steve Agee was a member of the Virginia House of Delegates, representing the city of Salem; the Counties of Craig, Montgomery, and Roanoke; and the towns of Christiansburg, New Castle, and Vinton to Virginia's General Assembly.

In 2000, the Virginia General Assembly unanimously confirmed Steve Agee to the Virginia Court of Appeals. In January 2003, the General Assembly once again unanimously confirmed Judge Agee—this time to one of seven seats on the Virginia Supreme Court.

For many years, he has been a member of the Board of Trustees for Bridgewater College; a member of the Board of Directors for the Bradley Free Clinic of Roanoke; a member of the Salem Rotary Club; and he has also contributed his time to the Western Virginia Foundation for the Arts and Sciences

and the Governor's Regional Economic Development Council for the New Century Region.

Justice Agee is obviously a very accomplished American. I appreciate the Senate Judiciary Committee's prompt consideration of this nominee, as the seat to which he has been nominated is designated as a judicial emergency by the Administrative Office of the United States Courts.

I am confident that Justice Steve Agee will serve on the Fourth Circuit with distinction, and I urge my colleagues to join me in voting in favor of his confirmation today.

I see my colleague. I would like to add just one more word, if I may.

We just received the news with regard to a dearly beloved Member of this Chamber, Senator KENNEDY of Massachusetts. It has been my privilege to know the Kennedy family for many years. In 1949, when I went to the University of Virginia Law School, his brother Bobby was there. I first met TEDDY KENNEDY in conjunction with the things we did in those days at Virginia Law School. We have been very close friends all these ensuing years.

I send forth my prayers for his recovery. You know, as Churchill once said in the darkest days of the Battle of Britain: Never, never, never give in. Those are the words that I know to be in TED KENNEDY's mind now. He will take on this challenge. How many times have we been privileged, in this Chamber, to listen to our colleague speak from that back row? He really doesn't need the microphone; his voice resonates to the rafters in this Chamber. That great strength that propels his voice to reverberate throughout the Senate Chamber will be the same strength that he will draw upon again in his recovery, for which we all pray.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, just before entering the Chamber, I heard the devastating news about Senator KENNEDY's diagnosis with a malignant brain tumor. I have been there. A few years back, I was diagnosed with a malignant brain tumor and given 3 to 6 weeks to live.

I note in the press release that it says:

How well patients fare depends on what specific tumor type is determined by further testing.

The diagnosis for me, for a malignant brain tumor, turned out to be incorrect.

I note Senator KENNEDY will be receiving chemotherapy and radiation. I know something about chemotherapy myself. I am in the middle of it right now for Hodgkin's.

But Senator KENNEDY is a real fighter. We all know that. I am betting on Senator KENNEDY. He has been such a champion on so many causes—civil rights, health, education, labor reform, and the judiciary, where he served as chairman of the Senate Judiciary Committee with great distinction.

It would be my hope that what has happened today would provide some motivation for both parties to find a bipartisan way to cross the aisle and to stop the bickering which has characterized the confirmation process for so many years. Senator KENNEDY has been an example, a shining example. He has crossed the aisle and sponsored so many legislative enactments. I have had the opportunity to cosponsor the Kennedy-Specter bill, for example, on hate crimes and the civil rights bill that has been so often cited.

I have said all I had to say about the current matter. I spoke at length yesterday and again today on Justice Agee. There is no doubt he is well qualified—the other two nominees are as well.

When you cite the statistics, you can cite them both ways. You can cite them in all directions. When you talk about fault, it is equal; the blame is on both sides. The conduct of both parties in this Chamber has been disgraceful in the last 20 years—both sides, first one side and then the other, and each time it exacerbates.

I worked very closely with Senator LEAHY over the years, and we have had some real bipartisan agreements. My hope is that he and I can get together again and find a way to solve this partisan morass and to establish a timetable that once a nomination comes in, so many days later, there is a hearing; so many days later, it comes out of committee; and so many days later, it comes to the floor.

In the middle of the battle over this so-called deal, which I have spoken on at length yesterday and today, the news of what has happened with Senator KENNEDY perhaps will give us some motivation to follow Senator KENNEDY's lead.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I rise principally to associate myself with the remarks of Senator WARNER, our senior Senator from Virginia, and to recommend to this body the qualifications of Steven Agee for this position and to emphasize that I believe Senator WARNER and I have been able to accomplish some things in the last year and a half that I hope we can sort of spread out in a broader way to the body here. We found the issues on which we can work together in terms of governing this country in a responsible way. The judicial nominees are one of them. We have worked not only closely together, we worked in the same room, interviewing people who would be potential judges, recommending them jointly to the White House, and supporting them thereafter.

I highly recommend this candidate.

I also would like to take a moment and associate myself with the remarks of others who expressed their concern about Senator KENNEDY. He is truly a lion of the Senate.

Incidentally, I wish to also express my profound respect for the senior Sen-

ator from Pennsylvania for the way he has addressed his own health challenges over the years and the example he has set for all of us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, may I say to my distinguished colleague, the junior Senator from Virginia, and my partner, I thank him so much for the way in which, from the moment he has arrived at the Senate, we have worked together on behalf of the interests of our Nation and our State. I think this is a very clear manifestation of how two Senators of different parties can come together and find that candidate they judge to be eminently qualified to serve—not only the State of Virginia but the other States served by the Fourth Circuit. As we know, circuit court opinions are binding on a wide realm of cases throughout the Nation.

I thank my colleague from Virginia for his participation with me as a full partner in bringing this nomination to the floor.

Mr. WEBB. I thank the Senator. I thank him also for the leadership and example he has set for this body over the 30 years.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. One and one half minute remains for Senators to speak.

Mr. LEAHY. Mr. President, I sat here, discussing with the distinguished ranking member, Senator SPECTER, health matters. Senator SPECTER is a longtime friend. He has gone through some terrible health issues. We were discussing that. I will not go further into that because it was a private conversation, except that he knows how much I pray for his well-being and his continued health.

I would also say I thank Senator WARNER and Senator DURBIN and Senator SPECTER and others for what they said about Senator KENNEDY.

We in New England especially feel extraordinarily close to Senator KENNEDY. I have known him for more than a third of a century. We have all heard bad news on the Senate floor. This is one of the most difficult things I have heard in my 34 years here. I said to the people in my office, this is one of the worst days I have spent in the Senate, to hear this news.

Marcella and I will keep not only Senator KENNEDY but his wonderful family in our prayers and will continue to pray for a full recovery.

The PRESIDING OFFICER. There is 22 seconds remaining under the control of the minority.

Mr. GREGG. I yield back the time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

The question is, Will the Senate advise and consent to the nomination of G. Steven Agee, of Virginia, to be U.S. circuit judge for the Fourth Circuit?

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 136 Ex.]

YEAS—96

Akaka	Dole	McConnell
Alexander	Domenici	Menendez
Allard	Dorgan	Mikulski
Barrasso	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Pryor
Bingaman	Graham	Reed
Bond	Grassley	Reid
Boxer	Gregg	Roberts
Brown	Hagel	Rockefeller
Brownback	Harkin	Salazar
Bunning	Hatch	Sanders
Burr	Hutchison	Schumer
Byrd	Inhofe	Sessions
Cantwell	Inouye	Shelby
Cardin	Isakson	Smith
Carper	Johnson	Snowe
Casey	Kerry	Specter
Chambliss	Klobuchar	Stabenow
Coburn	Kohl	Stevens
Cochran	Kyl	Sununu
Coleman	Landrieu	Tester
Collins	Lautenberg	Thune
Conrad	Leahy	Vitter
Corker	Levin	Voivovich
Cornyn	Lieberman	Warner
Craig	Lincoln	Webb
Crapo	Lugar	Whitehouse
DeMint	Martinez	Wicker
Dodd	McCaskey	Wyden

NOT VOTING—4

Clinton	McCain
Kennedy	Obama

The nomination was confirmed.

NOMINATIONS OF MICHAEL G. MCGINN AND RALPH E. MARTINEZ

The PRESIDING OFFICER. Under the previous order, Calendar Nos. 537 and 538 are confirmed, and the motion to reconsider is considered made and laid upon the table.

Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

Who seeks recognition?

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. ENZI. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. ENZI. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DAY OF THE AMERICAN COWBOY

Mr. ENZI. Mr. President, I rise to talk about one of the great icons of the American West, the cowboy. The cowboy is an enduring symbol of strong character, honesty, integrity, respect, and patriotism. I am proud to carry on a tradition started by my late colleague and friend, Senator Craig Thomas, by sponsoring S. Res. 483 which honors the men and women called cowboys, designating July 26, 2008, as the national day of the American cowboy. I am an accountant and one of the few elected officials from Wyoming who isn't known for riding a horse. But when anyone mentions my home State, the first image that comes to mind is a cowboy and a horse.

For many of us in the Senate, no one fits that image as well as my friend Craig Thomas. As he went through his leukemia treatments and still worked, he showed us what it was to cowboy up, to focus around pain, and to do the job at hand. Having lived in Wyoming most of my life, I have gotten to know the best cowboys in our country, and Craig surely showed us what it meant to be a cowboy.

When Senator Thomas first began the tradition of designating a National Day of the American Cowboy in 2005, he told us "Cowboys come in any age, race, marital status, and gender." He knew the cowboy spirit was not about getting dressed in cowboy boots and a cowboy hat. He said:

Trying to define a cowboy is like trying to rope the wind, but you certainly recognize one when you see one.

We all recognized the cowboy spirit in Craig. It is about strength of character, sound family values, courage, respect, and good common sense.

Since it was first established in 2005, the National Day of the American Cowboy has been celebrated at rodeos across the Nation, including Cheyenne Frontier Days, known as the "daddy of 'em all."

Senator Thomas would find me remiss if I did not invite all of you to Cheyenne Frontier Days at the end of July—or call my office to know about other rodeos in our State.

Sadly, Senator Thomas passed away after finishing the resolution for the National Day of the American Cowboy last year. But I am proud to continue the tradition he started to recognize the accomplishments and contributions of all American cowboys.

The cowboy way of life has been passed down for generations, since the first cowboys settled the American West. They were true pioneers who came west to settle an untamed fron-

tier. Many of the cow towns that sprung up around the cattle business when the West was being settled are still there now. They continue to live their western heritage.

The first cowboys relied on hard work and persistence and loyalty to make their living in a tough country. Today's cowboys have not changed all that much from when the first wranglers and ranch hands started herding cattle on the Great Plains. Today's cowboys continue to rope and ride across the United States. There are about 720,000 ranchers in our Nation. They live and work in every State to manage nearly 100 million cattle. They are an integral part of Wyoming and many other Western States, and they undoubtedly improve our way of life.

Now, you can be assured that cowboys work hard, but they also play hard. Rodeo is a sport that tests skill with a rope or challenges a cowboy's ability to stay on the back of a bucking rough stock for 8 long seconds. One of the best parts of watching a rodeo is seeing the amazing partnership between the cowboy and the horse. Rodeos across the Nation, from big events such as Cheyenne Frontier Days and the National Finals Rodeo in Las Vegas, to weekly jackpots in rural communities such as Kaycee or Cody, WY, attract more than 27 million fans annually, making rodeo one of the most watched sports in America. The Professional Bull Riders circuit, with its TV coverage, has expanded the audience dramatically.

The cowboy legend still lives in our culture and our imaginations. John Wayne made cowboys larger than life in movies such as "How the West Was Won" and "She Wore a Yellow Ribbon," and "The Cowboys." Gene Autry, Roy Rogers, and Dale Evans entertained millions with their music, television, and movies, and Louis L'Amour's cowboy stories are read across the country. Audiences today continue to enjoy western novels, cowboy movies, and country music.

We look up to cowboys because they are examples of honesty, integrity, character, patriotism, and self-reliance. Cowboys have a strong work ethic, they are compassionate, and they are good stewards of the land. We look to cowboys as role models for how to live up to the best American qualities.

Craig Thomas told us that those of us from the West could always feel at home in Wyoming because we know it is, and always will be, cowboy country. I am proud to be from a State that continues to live the cowboy tradition every day. Their contributions have helped shape what it means to be an American and have created a high standard we can all strive to meet.

Senator Thomas left some big cowboy boots to fill, and I am proud to be able to continue his tradition of recognizing the many contributions cowboys have made to our country as we designate July 26 as National Day of the American Cowboy for 2008.

I thank Senator Thomas for living the legend and involving us and America.

I have a unanimous consent request to read.

Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of and the Senate now proceed to S. Res. 482.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 482) designating July 26, 2008, as "National Day of the American Cowboy."

There being no objection, the Senate proceeded to consider the resolution.

Mr. ENZI. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 482) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 482

Whereas pioneering men and women, recognized as "cowboys", helped establish the American West;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy spirit exemplifies strength of character, sound family values, and good common sense;

Whereas the cowboy archetype transcends ethnicity, gender, geographic boundaries, and political affiliations;

Whereas the cowboy is an excellent steward of the land and its creatures, who lives off of the land and works to protect and enhance the environment;

Whereas cowboy traditions have been a part of American culture for generations;

Whereas the cowboy continues to be an important part of the economy through the work of approximately 727,000 ranchers in all 50 of the United States that contribute to the economic well-being of nearly every county in the Nation;

Whereas annual attendance at professional and working ranch rodeo events exceeds 27,000,000 fans and rodeo is the 7th most-watched sport in the Nation;

Whereas membership and participation in rodeo and other organizations that promote and encompass the livelihood of a cowboy span every generation and transcend race and gender;

Whereas the cowboy is a central figure in literature, film, and music and occupies a central place in the public imagination;

Whereas the cowboy is an American icon; and

Whereas the ongoing contributions made by cowboys and cowgirls to their communities should be recognized and encouraged: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates July 26, 2008, as "National Day of the American Cowboy"; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. ENZI. Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

SENATOR TED KENNEDY

Mr. REID. Mr. President, first of all, let me say this, before we get into Senate business. I made some remarks outside the Senate Chamber, as I always do, following our Tuesday caucus. I had with me Senator CHRIS DODD and Senator JOHN KERRY. The purpose of our being there was to talk about Senator KENNEDY; and we did that.

Amidst the politics and partisanship that takes place in the Senate, the casual observer may not realize how the Senate is a family. We are 100 men and women who work hard during the day, each of us doing our very best to make the country a better place. We argue, we debate, but we approach each other with deep respect and friendship.

That is why, in the heat of battle, I always refer to my Republican counterpart as my friend. That is just not something we do for protocol. That is because MITCH MCCONNELL is my friend. We say that as we proceed through our debates.

But just as we, as Senators, celebrate joyous occasions—birthdays, weddings, new children and grandchildren—we also face hardship together.

Today, we learned the concerning news about our friend, an American icon, an American legend, Senator TED KENNEDY. I know I speak for every Senator that our thoughts and prayers are with TED and his family.

I had a conversation on the floor with Senator MCCONNELL. He told me during the Republican caucus today they paused to say a prayer for Senator KENNEDY, as we did in our caucus.

One of Senator KENNEDY's brothers was killed in combat in World War II. Of course, we all know his brother, President Kennedy, was assassinated. We all know Attorney General Robert Kennedy, Senator Robert Kennedy, was assassinated.

As I said outside, the thing I remember and will always remember about Senator TED KENNEDY is the speech he gave at his brother's funeral. I was not a Member of Congress at that time, but I watched on national television the speech he gave. It was remarkable what he said and how he delivered it. I will never forget that.

But in addition to that, we know one thing—all of us who know TED KENNEDY—he is a fighter. We have heard this lion roar on the Senate floor on so many occasions. His work ethic is unsurpassed. His effectiveness is legendary. The challenge Senator KENNEDY now faces will not be easy, but I think no one is more prepared to fight and beat it.

I spoke at 1 o'clock to Vicki, his wonderful wife, and she said he has approached this like he does everything: with determination that he is going to beat it. She said he has a bounce in his step today that he has not had in a long time.

So he is in good spirits. He is full of energy. If TED happens to be watching on C-SPAN, I want him to know all his brothers and sisters in the Senate are thinking of him, cheering, and praying for him.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, the Republican conference, at noon today, paused for a prayer for our friend and colleague, TED KENNEDY. As the majority leader has indicated, we are, in spite of our political differences, one large family.

Senator KENNEDY enjoys great respect and admiration on this side of the aisle. He is, indeed, one of the most important figures to ever serve in this body in our history, and Republican Senators recognize that as well.

On a personal basis, he came down to the University of Louisville, at my request, a couple years ago to speak to students and the general public on the campus. It was a speech of Presidential quality. He knew I had been an intern in the office of Senator John Sherman Cooper, who represented my State in the Senate for almost 20 years and who was a fast friend of his brother, President Kennedy, and of his. He brought down with him to U of L that day a framed picture of his brother with Senator Cooper, carefully inscribed at the bottom with the most appropriate inscription you can imagine. He did not miss a thing.

Our prayers go out to Vicki and to the family.

On behalf of every member of the Republican conference of the Senate, I say to you, TED, you enjoy our admiration and our respect, and our wishes for a speedy recovery.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2008

Mr. REID. Mr. President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 2642, the supplemental appropriations bill.

The PRESIDING OFFICER. The clerk will report the message.

The assistant legislative clerk read as follows:

H.R. 2642

*Resolved*, That the House agree to the amendment of the Senate to the bill (H.R. 2642) entitled "An Act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes", with the following House amendments to Senate amendment:

(1) Page 60 of the Senate engrossed amendment, after line 3, insert the following:

TITLE X—POLICY REGARDING OPERATIONS IN IRAQ

SENSE OF CONGRESS REGARDING UNITED STATES MILITARY PERSONNEL

SEC. 10001. It is the sense of the Congress that the performance of United States military personnel should be commended, their courage and

sacrifice have been exceptional, and when they come home, their service should be recognized appropriately.

UNITS DEPLOYED FOR COMBAT TO BE FULLY MISSION CAPABLE

SEC. 10002. (a) The Congress finds that it is the policy of the Department of Defense that units should not be deployed for combat unless they are rated "fully mission capable".

(b) None of the funds made available in this or any other Act may be used to deploy any unit of the Armed Forces to Iraq unless the President has certified in writing to the Committees on Appropriations and the Committees on Armed Services of the House of Representatives and the Senate at least 15 days in advance of the deployment that the unit is fully mission capable in advance of entry into Iraq.

(c) For purposes of subsection (b), the term "fully mission capable" means capable of performing assigned mission essential tasks to the prescribed standards under the conditions expected in the theater of operation, consistent with the guidelines set forth in the DoD Directive 7730.65, Subject: Department of Defense Readiness Reporting System; the Interim Force Allocation Guidance to the Global Force Management Board, dated February 6, 2008; and Army Regulation 220-1, Subject: Unit Status Reporting, dated December 19, 2006.

(d) The President, by certifying in writing to the Committees on Appropriations and the Committees on Armed Services of the House of Representatives and the Senate that the deployment to Iraq of a unit that is not assessed mission capable is required for reasons of national security and by submitting along with the certification a report in classified and unclassified form detailing the particular reason or reasons why the unit's deployment is necessary despite the unit commander's assessment that the unit is not mission capable, may waive the limitations prescribed in subsection (b) on a unit-by-unit basis.

TIME LIMIT ON COMBAT DEPLOYMENTS

SEC. 10003. (a) The Congress finds that it is the policy of the Department of Defense that Army, Army Reserve, and National Guard units should not be deployed for combat beyond 365 days and that Marine Corps and Marine Corps Reserve units should not be deployed for combat beyond 210 days.

(b) None of the funds made available in this or any other Act may be obligated or expended to initiate the development of, continue the development of, or execute any order that has the effect of extending the deployment for Operation Iraqi Freedom of—

(1) any unit of the Army, Army Reserve, or Army National Guard beyond 365 days; or

(2) any unit of the Marine Corps or Marine Corps Reserve beyond 210 days.

(c) The limitation prescribed in subsection (b) shall not be construed to require force levels in Iraq to be decreased below the total United States force levels in Iraq as of January 9, 2007.

(d) The President may waive the limitations prescribed in subsection (b) on a unit-by-unit basis if the President certifies in writing to the Committees on Appropriations and the Committees on Armed Services of the House of Representatives and the Senate that the extension of a unit's deployment in Iraq beyond the period applicable to the unit under such subsection is required for reasons of national security. The certification shall include a report, in classified and unclassified form, detailing the particular reason or reasons why the unit's extended deployment is necessary.

DWELL TIME BETWEEN COMBAT DEPLOYMENTS

SEC. 10004. (a) The Congress finds that it is the policy of the Department of Defense that an Army, Army Reserve, or National Guard unit should not be redeployed for combat if the unit has been deployed within the previous 365 consecutive days and that a Marine Corps or Marine Corps Reserve unit should not be redeployed for combat if the unit has been deployed within the previous 210 days.

(b) None of the funds made available in this or any other Act may be obligated or expended to initiate the development of, continue the development of, or execute any order that has the effect of deploying for Operation Iraqi Freedom of—

(1) any unit of the Army, Army Reserve, or Army National Guard if such unit has been deployed within the previous 365 consecutive days; or

(2) any unit of the Marine Corps or Marine Corps Reserve if such unit has been deployed within the previous 210 consecutive days.

(c) The limitation prescribed in subsection (b) shall not be construed to require force levels in Iraq to be decreased below the total United States force levels in Iraq as of January 9, 2007.

(d) The President may waive the limitations prescribed in subsection (b) on a unit-by-unit basis if the President certifies in writing to the Committees on Appropriations and the Committees on Armed Services of the House of Representatives and the Senate that the redeployment of a unit to Iraq in advance of the expiration of the period applicable to the unit under such subsection is required for reasons of national security. The certification shall include a report, in classified and unclassified form, detailing the particular reason or reasons why the unit's early redeployment is necessary.

LIMITATION ON INTERROGATION TECHNIQUES

SEC. 10005. (a) No individual in the custody or under the effective control of an element of the intelligence community or instrumentality thereof, regardless of nationality or physical location, shall be subject to any treatment or technique of interrogation not authorized by the United States Army Field Manual on Human Intelligence Collector Operations.

(b) In this section, the term "instrumentality", with respect to an element of the intelligence community, means a contractor or subcontractor at any tier of the element of the intelligence community.

REGISTRATION WITH THE INTERNATIONAL COMMITTEE OF THE RED CROSS

SEC. 10006. (a) None of the funds appropriated or otherwise made available in this or any other Act may be used to detain any individual who is in the custody or under the effective control of an element of the intelligence community or an instrumentality thereof unless the International Committee of the Red Cross is provided notification of the detention of and access to such person in a timely manner and consistent with the practices of the Armed Forces of the United States.

(b) For purposes of this section, the term "instrumentality", with respect to an element of the intelligence community, means a contractor or subcontractor at any tier of the element of the intelligence community.

(c) Nothing in this section shall be construed to create or otherwise imply the authority to detain, or to limit or otherwise affect any other rights or obligations which may arise under the Geneva Conventions or other laws, or to state all of the situations under which notification to and access for the International Committee of the Red Cross is required or allowed.

PROHIBITION OF PERMANENT BASES IN IRAQ

SEC. 10007. None of the funds appropriated or otherwise made available in this or any other Act may be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

LIMITATION ON DEFENSE AGREEMENTS WITH THE GOVERNMENT OF IRAQ

SEC. 10008. (a) None of the funds appropriated or otherwise made available in this or any other Act may be used to negotiate, enter into, or implement any agreement with the Government of

Iraq that includes security assurances for mutual defense, unless the agreement—

(1) is in the form of a treaty requiring the advice and consent of the Senate (or is intended to take that form in the case of an agreement under negotiation); or

(2) is specifically authorized by a law enacted after the date of enactment of this Act.

(b) For purposes of this section, an agreement shall be considered to include security assurances for mutual defense if it includes provisions addressing any of the following:

(1) A binding commitment to deploy United States Armed Forces in defense of Iraq, or of any government or faction in Iraq, against any foreign or domestic threat.

(2) The number of United States Armed Forces personnel to be deployed to, or stationed in, Iraq.

(3) The mission of United States Armed Forces deployed to Iraq.

(4) The duration of the presence of United States Armed Forces in Iraq.

PROHIBITION ON AGREEMENTS SUBJECTING ARMED FORCES TO IRAQI CRIMINAL JURISDICTION

SEC. 10009. None of the funds appropriated or otherwise made available in this or any other Act may be used to negotiate, enter into, or implement an agreement with the Government of Iraq that would subject members of the Armed Forces of the United States to the jurisdiction of Iraq criminal courts or punishment under Iraq law.

REQUIREMENT FOR MATCHING FUNDS FROM GOVERNMENT OF IRAQ

SEC. 10010. (a) Notwithstanding any other provision of law, funds appropriated or otherwise made available in this or any other Act for assistance for Iraq, including training, capacity building, and construction and repair of infrastructure, shall be available only to the extent that the Government of Iraq matches such assistance on a dollar-for-dollar basis.

(b) subsection (a) shall not apply to—

(1) grants and cooperative agreements for programs to promote democracy and human rights;

(2) the Community Action Program and other direct assistance to non-governmental organizations;

(3) humanitarian demining;

(4) assistance for refugees, internally displaced persons, and civilian victims of military operations;

(5) intelligence or intelligence-related activities; or

(6) projects with an estimated cost of less than \$750,000 undertaken through the Commander's Emergency Response Program.

(c) The Secretary of State and the Secretary of Defense shall certify to the Committees on Appropriations of the House of Representatives and Senate, prior to the initial obligation by their respective Departments of funds covered by the limitation in subsection (a), that the Government of Iraq has committed to obligate matching funds on a dollar-for-dollar basis. The Secretary of State shall submit a report to the Committees on Appropriations not later than September 30, 2009 detailing the amounts of funds obligated and expended by the Government of Iraq to meet the requirements of this section.

(d) Not later than 45 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq since June 30, 2004, to assist Iraqi refugees in Syria, Jordan, and elsewhere, and the amount of such assistance the Government of Iraq plans to provide in fiscal year 2008. The Secretary shall work expeditiously with the Government of Iraq to establish an account within its annual budget sufficient to, at a minimum, match United States contributions on a dollar-for-dollar basis to organizations and programs for the purpose of assisting Iraqi refugees.

(e) As part of the report required by section 609 of division L of the Consolidated Appropriations Act, 2008 (Public Law 110-161), the Secretary of Defense shall submit to Congress a report on the most recent annual budget for the Government of Iraq, including—

(1) a description of amounts budgeted for support of Iraqi security and police forces and an assessment of how planned funding will impact the training, equipping and overall readiness of those forces;

(2) an assessment of the capacity of the Government of Iraq to implement the budget as planned, including reports on year-to-year spend rates, if available; and

(3) a description of any budget surplus or deficit, if applicable.

PARTIAL REIMBURSEMENT FROM IRAQ FOR FUEL COSTS

SEC. 10011. (a) None of the funds made available in this Act under the heading "Operation and Maintenance, Defense-Wide" for the Office of the Secretary of Defense or Washington Headquarters Services may be obligated or expended until the agreement described in subsection (b)(1) is complete and the report required by subsection (b)(2) has been transmitted to Congress, except that the limitation in this subsection may be waived if the President determines and certifies to the Committees on Appropriations of the House of Representatives and Senate that such waiver is in the national security interests of the United States.

(b) Not later than 90 days after enactment of this Act, the President shall—

(1) complete an agreement with the Government of Iraq to subsidize fuel costs for United States Armed Forces operating in Iraq so the price of fuel per gallon to those forces is equal to the discounted price per gallon at which the Government of Iraq is providing fuel for domestic Iraqi consumption; and

(2) transmit a report to the Committees on Appropriations on the details and terms of that agreement.

(c) Amounts received from the Government of Iraq under an agreement described in subsection (b)(1) shall be credited to the appropriations or funds that incurred obligations for the fuel costs being subsidized, as determined by the Secretary of Defense.

TIMETABLE FOR REDEPLOYMENT OF UNITED STATES FORCES FROM IRAQ

SEC. 10012. (a) Notwithstanding any other provision of law, funds appropriated or otherwise made available in this Act may be used to plan and execute a safe and orderly redeployment of United States Armed Forces from Iraq.

(b) Within 30 days after enactment of this Act, the President shall commence an immediate and orderly redeployment of United States Armed Forces from Iraq, with a goal of completing such redeployment within 18 months. The President shall endeavor to begin such redeployment with units of the Armed Forces that have been deployed in excess of 365 days, except to the extent those units are needed to provide for the safe withdrawal of other units of the Armed Forces or to protect United States and Coalition personnel and infrastructure.

(c) After completion of the redeployment required by subsection (b), members of the United States Armed Forces may be deployed to, or maintained in, Iraq only to the extent necessary to carry out the following missions:

(1) Protecting the diplomatic facilities, Armed Forces, and citizens of the United States in Iraq.

(2) Conducting limited training of, equipping, and providing logistical and intelligence support to, Iraqi security forces.

(3) Engaging in targeted counterterrorism operations against al-Qaeda, groups affiliated with al-Qaeda, and other terrorist organizations in Iraq.

(d) Not later than July 1, 2008, and every 90 days thereafter, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the following:

(1) The current plan for and the status of the reduction of United States Armed Forces in Iraq and the transition of the Armed Forces in Iraq to a limited presence whose missions do not exceed the missions specified in subsection (c), including the associated force reductions and adjustments and expectations with respect to timelines and the force levels anticipated to perform those missions.

(2) A comprehensive current description of efforts to prepare for the reduction and transition of United States Armed Forces in Iraq in accordance with this section and to limit any destabilizing consequences of such reduction and transition, including a description of efforts to work with the United Nations and countries in the region toward that objective.

(e) Not later than 45 days after enactment of this Act, the Secretary of State shall provide to the Committees on Appropriations of the House of Representatives and Senate a strategy for civilian-led post-conflict stabilization and reconstruction assistance for Iraq. The strategy (which may be provided in classified form if necessary) shall include—

(1) the plans and timetable for transfer of all responsibility for United States post-conflict stabilization and reconstruction assistance from the Department of Defense to the Department of State and the United States Agency for International Development; and

(2) the staff, security and resource requirements for United States diplomatic efforts and assistance programs in Iraq.

TITLE XI—REFORMS RELATED TO WAR PROFITEERING AND CONTRACTORS  
CHAPTER 1—ADJUSTMENT OF WARTIME STATUTE OF LIMITATIONS

ADJUSTMENT OF WARTIME STATUTE OF LIMITATIONS

SEC. 11101. Section 3287 of title 18, United States Code, is amended—

(1) by inserting "or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b))," after "is at war";

(2) by inserting "or directly connected with or related to the authorized use of the Armed Forces" after "prosecution of the war";

(3) by striking "three years" and inserting "5 years";

(4) by striking "proclaimed by the President" and inserting "proclaimed by a Presidential proclamation, with notice to Congress,"; and

(5) by adding at the end the following: "For purposes of applying such definitions in this section, the term 'war' includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b))."

CHAPTER 2—WAR PROFITEERING AND FRAUD

WAR PROFITEERING AND FRAUD

SEC. 11201. (a) PROHIBITION ON WAR PROFITEERING.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

**"§ 1041. War profiteering and fraud**

"(a) PROHIBITION.—Whoever, in any matter involving a contract with, or the provision of goods or services to, the United States or a provisional authority, in connection with a mission of the United States Government overseas, knowingly—

"(1)(A) executes or attempts to execute a scheme or artifice to defraud the United States or that authority; or

"(B) materially overvalues any good or service with the intent to defraud the United States or that authority;

shall be fined not more than \$1,000,000 or imprisoned not more than 20 years, or both; or

"(2) in connection with the contract or the provision of those goods or services—

"(A) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

"(B) makes any materially false, fictitious, or fraudulent statements or representations; or

"(C) makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined not more than \$1,000,000 or imprisoned not more than 10 years, or both.

"(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) VENUE.—A prosecution for an offense under this section may be brought—

"(1) as authorized by chapter 211 of this title;

"(2) in any district where any act in furtherance of the offense took place; or

"(3) in any district where any party to the contract or provider of goods or services is located."

(2) TABLE OF SECTIONS.—The table of sections for chapter 47 of such title is amended by adding at the end the following:

"1041. War profiteering and fraud."

(b) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking "or 1030" and inserting "1030, or 1041".

(c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "section 1041 (relating to war profiteering and fraud)," after "liquidating agent of financial institution),".

(d) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 1041 (relating to war profiteering and fraud)," after "in connection with access devices),".

CHAPTER 3—MILITARY EXTRATERRITORIAL JURISDICTION  
SHORT TITLE

SEC. 11301. This chapter may be cited as the "MEJA Expansion and Enforcement Act of 2008".

LEGAL STATUS OF CONTRACT PERSONNEL

SEC. 11302. (a) CLARIFICATION OF MILITARY EXTRATERRITORIAL JURISDICTION ACT.—

(1) INCLUSION OF FEDERAL EMPLOYEES AND CONTRACTORS.—Section 3261(a) of title 18, United States Code, is amended—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the comma at the end and inserting a semicolon; and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) while employed by any Department or agency of the United States other than the Armed Forces in a foreign country in which the Armed Forces are conducting a qualifying military operation; or

"(4) while employed as a security officer or security contractor by any Department or agency of the United States other than the Armed Forces,".

(2) DEFINITIONS.—Section 3267 of title 18, United States Code, is amended—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) employed by or performing services under a contract with or grant from the Department of Defense (including a nonappropriated fund instrumentality of the Department) as—

"(i) a civilian employee (including an employee from any other Executive agency on temporary assignment to the Department of Defense);

"(ii) a contractor (including a subcontractor at any tier); or

"(iii) an employee of a contractor (including a subcontractor at any tier);"; and

(B) by adding at the end the following new paragraphs:

"(5) The term 'employed by any Department or agency of the United States other than the Armed Forces' means—

“(A) employed by or performing services under a contract with or grant from any Department or agency of the United States, or any provisional authority funded in whole or substantial part or created by the United States Government, other than the Department of Defense as—

“(i) a civilian employee;  
“(ii) a contractor (including a subcontractor at any tier); or  
“(iii) an employee of a contractor (including a subcontractor at any tier);  
“(B) present or residing outside the United States in connection with such employment; and  
“(C) not a national of or ordinarily a resident in the host nation.

“(6) The term ‘employed as a security officer or security contractor by any Department or agency of the United States other than the Armed Forces’ means—

“(A) employed by or performing services under a contract with or grant from any Department or agency of the United States, or any provisional authority funded in whole or substantial part or created by the United States Government, other than the Department of Defense as—

“(i) a civilian employee;  
“(ii) a contractor (including a subcontractor at any tier); or  
“(iii) an employee of a contractor (including a subcontractor at any tier);  
“(B) authorized in the course of such employment—

“(i) to provide physical protection to or security for persons, places, buildings, facilities, supplies, or means of transportation;  
“(ii) to carry or possess a firearm or dangerous weapon, as defined by section 930(g)(2) of this chapter;

“(iii) to use force against another; or  
“(iv) to supervise individuals performing the activities described in clause (i), (ii) or (iii);

“(C) present or residing outside the United States in connection with such employment; and  
“(D) not a national of or ordinarily resident in the host nation.

“(7) The term ‘qualifying military operation’ means—

“(A) a military operation covered by a declaration of war or an authorization of the use of military force by Congress;

“(B) a contingency operation (as defined in section 101 of title 10); or

“(C) any other military operation outside of the United States, including a humanitarian assistance or peace keeping operation, provided such operation is conducted pursuant to an order from or approved by the Secretary of Defense.”

(b) DEPARTMENT OF JUSTICE INSPECTOR GENERAL REPORT.—

(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Justice, in consultation with the Inspectors General of the Department of Defense, the Department of State, the United States Agency for International Development, the Department of Agriculture, the Department of Energy, and other appropriate Federal departments and agencies, shall submit to Congress a report in accordance with this subsection.

(2) CONTENT OF REPORT.—The report under paragraph (1) shall include, for the period beginning on October 1, 2001, and ending on the date of the report—

(A) unless the description pertains to non-public information that relates to an ongoing investigation or criminal or civil proceeding under seal, a description of any alleged violations of section 3261 of title 18, United States Code, reported to the Inspector Generals identified in paragraph (1) or the Department of Justice, including—

(i) the date of the complaint and the type of offense alleged;

(ii) whether any investigation was opened or declined based on the complaint;

(iii) whether the investigation was closed, and if so, when it was closed;

(iv) whether a criminal or civil case was filed as a result of the investigation, and if so, when it was filed; and

(v) any charges or complaints filed in those cases; and

(B) unless the description pertains to non-public information that relates to an ongoing investigation or criminal or civil proceeding under seal, and with appropriate safeguards for the protection of national security information, a description of any shooting or escalation of force incidents in Iraq or Afghanistan involving alleged misconduct by persons employed as a security officer or security contractor by any Department or agency of the United States, and any official action taken against such persons.

(3) FORM OF REPORT.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex as appropriate.

#### INVESTIGATIVE UNITS FOR CONTRACTOR OVERSIGHT

SEC. 11303. (a) ESTABLISHMENT OF INVESTIGATIVE UNITS FOR CONTRACTOR OVERSIGHT.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the heads of any other Federal departments or agencies responsible for employing private security contractors or contractors (or subcontractors at any tier) in a foreign country where the Armed Forces are conducting a qualifying military operation—

(A) shall assign adequate personnel and resources through the creation of Investigative Units for Contractor Oversight to investigate allegations of criminal violations under paragraphs (3) and (4) of section 3261(a) of title 18, United States Code (as amended by section 11302(a) of this chapter); and

(B) may authorize the overseas deployment of law enforcement agents and other Department of Justice personnel for that purpose.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall limit any existing authority of the Attorney General or any Federal law enforcement agency to investigate violations of Federal law or deploy personnel overseas.

(b) REFERRAL FOR PROSECUTION.—Upon conclusion of an investigation of an alleged violation of sections 3261(a)(3) and 3261(a)(4) of title 18, United States Code, an Investigative Unit for Contractor Oversight may refer the matter to the Attorney General for further action, as appropriate in the discretion of the Attorney General.

(c) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—

(1) INVESTIGATION.—The Attorney General shall have the principal authority for the enforcement of sections 3261(a)(3) and 3261(a)(4) of title 18, United States Code, and shall have the authority to initiate, conduct, and supervise investigations of any alleged violations of such sections 3261(a)(3) and 3261(a)(4).

(2) ASSISTANCE ON REQUEST OF THE ATTORNEY GENERAL.—Notwithstanding any statute, rule, or regulation to the contrary, the Attorney General may request assistance from the Secretary of Defense, the Secretary of State, or the head of any other Executive agency to enforce this chapter. This requested assistance may include the assignment of additional personnel and resources to an Investigative Unit for Contractor Oversight established by the Attorney General under subsection (a).

(3) ANNUAL REPORT.—Not later than one year after the date of enactment of this Act, and annually thereafter, the Attorney General, in consultation with the Secretary of Defense and the Secretary of State, shall submit to Congress a report containing—

(A) the number of violations of sections 3261(a)(3) and 3261(a)(4) of title 18, United States Code, received, investigated, and referred for prosecution by Federal law enforcement authorities during the previous year;

(B) the number and location of Investigative Units for Contractor Oversight deployed to investigate violations of such sections 3261(a)(3) and 3261(a)(4) during the previous year; and

(C) any recommended changes to Federal law that the Attorney General considers necessary to enforce this chapter and the amendments made by this chapter and chapter 212 of title 18, United States Code.

#### REMOVAL PROCEDURES FOR NON-DEPARTMENT OF DEFENSE EMPLOYEES AND CONTRACTORS

SEC. 11304. (a) ATTORNEY GENERAL REGULATIONS.—Section 3266 of title 18, United States Code, is amended by adding at the end the following:

“(d) The Attorney General, after consultation with the Secretary of Defense, the Secretary of State, and the Director of National Intelligence, may prescribe regulations governing the investigation, apprehension, detention, delivery, and removal of persons described in sections 3261(a)(3) and 3261(a)(4) and describing the notice due, if any, foreign nationals potentially subject to the criminal jurisdiction of the United States under those sections.”

(b) CLARIFYING AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Chapter 212 of title 18, United States Code, is amended—

(A) in section 3261(a)—

(i) by inserting “against the United States” after “offense” the first time it appears; and  
(ii) by inserting “within the United States or” after “had been engaged in”;

(B) in section 3262—

(i) in subsection (a), by striking “section 3261(a)” the first place it appears and inserting “section 3261(a)(1) or 3261(a)(2)”;

(ii) by redesignating subsection (b) as subsection (c); and

(iii) by inserting after subsection (a) the following new subsection (b):

“(b) The Attorney General may designate and authorize any person serving in a law enforcement position in the Department of Justice, the Department of Defense, the Department State, or any other Executive agency to arrest, in accordance with applicable international agreements, outside the United States any person described in section 3261(a) if there is probable cause to believe that such person violated section 3261(a).”

(C) in section 3263(a), by striking “section 3261(a)” the first place it appears and inserting “section 3261(a)(1) or 3261(a)(2)”;

(D) in section 3264(a), by inserting “described in section 3261(a)(1) or 3261(a)(2)” before “arrested”;

(E) section 3265(a)(1) by inserting “described in section 3261(a)(1) or 3261(a)(2)” before “arrested”; and

(F) in section 3266(a), by striking “under this chapter” and inserting “described in section 3261(a)(1) or 3261(a)(2)”.

(2) ADDITIONAL AMENDMENT.—Section 7(9) of title 18, United States Code, is amended by striking “section 3261(a)” and inserting “section 3261(a)(1) or 3261(a)(2)”.

#### RULES OF CONSTRUCTION

SEC. 11305. (a) IN GENERAL.—Nothing in this chapter or the amendments made by this chapter shall apply to authorized and otherwise lawful intelligence activities carried out by or at the direction of the United States.

(b) DEFENSES.—Nothing in this section shall be construed to limit or extinguish any defense or protection otherwise available to any person or entity from suit, civil or criminal liability, or damages, or to provide immunity from prosecution for any criminal offense by the proper authorities.

(c) EXISTING EXTRATERRITORIAL JURISDICTION.—Nothing in this chapter or the amendments made by this chapter shall be construed to limit or affect the extraterritorial jurisdiction related to any Federal statute not amended by this chapter.

## DEFINITION

SEC. 11306. For purposes of this chapter and the amendments made by this chapter, the term "Executive agency" has the meaning given in section 105 of title 5, United States Code.

## EFFECTIVE DATE

SEC. 11307. (a) IMMEDIATE EFFECTIVENESS.—The provisions of this chapter shall enter into effect immediately upon the enactment of this Act.

(b) IMPLEMENTATION.—The Attorney General and the head of any other Federal department or agency to which this chapter applies shall have 90 days after the date of the enactment of this Act to ensure compliance with the provisions of this chapter.

(2) Page 1 of the Senate engrossed amendment, strike line 1 and all that follows through the end of line 21 on page 59, and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, and for other purposes, namely:

**TITLE I—MILITARY CONSTRUCTION, VETERANS AFFAIRS, INTERNATIONAL AFFAIRS, AND OTHER SECURITY-RELATED MATTERS**

**CHAPTER 1—AGRICULTURE**  
**DEPARTMENT OF AGRICULTURE**  
**FOREIGN AGRICULTURAL SERVICE**  
**PUBLIC LAW 480 TITLE II GRANTS**

For an additional amount for "Public Law 480 Title II Grants", \$850,000,000, to remain available until expended.

For an additional amount for "Public Law 480 Title II Grants", \$395,000,000, to become available on October 1, 2008, and to remain available until expended.

**CHAPTER 2—COMMERCE, JUSTICE, AND SCIENCE**

**DEPARTMENT OF JUSTICE**  
**OFFICE OF INSPECTOR GENERAL**

For an additional amount for "Office of Inspector General", \$4,000,000, to remain available until September 30, 2009.

## LEGAL ACTIVITIES

**SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES**

For an additional amount for "Salaries and Expenses, General Legal Activities", \$1,648,000, to remain available until September 30, 2009.

**SALARIES AND EXPENSES, UNITED STATES ATTORNEYS**

For an additional amount for "Salaries and Expenses, United States Attorneys", \$5,000,000, to remain available until September 30, 2009.

**UNITED STATES MARSHALS SERVICE**  
**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$18,621,000, to remain available until September 30, 2009.

**FEDERAL BUREAU OF INVESTIGATION**  
**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$92,169,000, to remain available until September 30, 2009.

For an additional amount for "Salaries and Expenses", \$82,600,000, to become available on October 1, 2008, and to remain available until September 30, 2009.

**DRUG ENFORCEMENT ADMINISTRATION**  
**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$12,166,000, to remain available until September 30, 2009.

**BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**

**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$4,000,000, to remain available until September 30, 2009.

**FEDERAL PRISON SYSTEM**  
**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$9,100,000, to remain available until September 30, 2009.

**CHAPTER 3—MILITARY CONSTRUCTION AND VETERANS AFFAIRS**  
**DEPARTMENT OF DEFENSE**  
**MILITARY CONSTRUCTION, ARMY**

For an additional amount for "Military Construction, Army", \$1,432,700,000, to remain available until September 30, 2009: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That of the funds provided under this heading, not to exceed \$73,400,000 shall be available for study, planning, design, and architect and engineer services: Provided further, That of the funds made available under this heading, \$72,000,000 shall not be obligated or expended until after that date on which the Secretary of Defense submits a detailed spending plan, including a 1391 form for each facilities replacement project, to the Committees on Appropriations of the House of Representatives and Senate: Provided further, That of the funds provided under this heading, \$533,700,000 shall not be obligated or expended until the Secretary of Defense certifies that none of the funds are to be used for the purpose of providing facilities for the permanent basing of United States military personnel in Iraq.

**MILITARY CONSTRUCTION, NAVY AND MARINE CORPS**

For an additional amount for "Military Construction, Navy and Marine Corps", \$423,357,000, to remain available until September 30, 2009: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That of the funds provided under this heading, not to exceed \$15,843,000 shall be available for study, planning, design, and architect and engineer services.

**MILITARY CONSTRUCTION, AIR FORCE**

For an additional amount for "Military Construction, Air Force", \$409,627,000, to remain available until September 30, 2009: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That of the funds provided under this heading, not to exceed \$36,427,000 shall be available for study, planning, design, and architect and engineer services: Provided further, That of the funds provided under this heading, \$58,300,000 shall not be obligated or expended until the Secretary of Defense certifies that none of the funds are to be used for the purpose of providing facilities for the permanent basing of United States military personnel in Iraq.

**MILITARY CONSTRUCTION, DEFENSE-WIDE**

For an additional amount for "Military Construction, Defense-Wide", \$1,009,600,000, to remain available until September 30, 2009: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That of the funds provided, \$982,000,000 shall be for medical treatment facilities construction (including planning and design) and shall remain available until September 30, 2012.

**FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS**

For an additional amount for "Family Housing Construction, Navy and Marine Corps,"

\$11,766,000, to remain available until September 30, 2009: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

**DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005**

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$1,354,634,000, to remain available until expended: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

**DEPARTMENT OF VETERANS AFFAIRS**  
**DEPARTMENTAL ADMINISTRATION**  
**GENERAL OPERATING EXPENSES**

For an additional amount for "General Operating Expenses", \$100,000,000, to remain available until September 30, 2009.

**INFORMATION TECHNOLOGY SYSTEMS**

For an additional amount for "Information Technology Systems", \$20,000,000, to remain available until September 30, 2009.

**GENERAL PROVISION, THIS CHAPTER**

SEC. 1301. None of the funds appropriated in this or any other Act may be used to terminate, reorganize, or relocate the Armed Forces Institute of Pathology until the President has established, as required by section 722 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 199; 10 U.S.C. 176 note), a Joint Pathology Center.

**CHAPTER 4—DEPARTMENT OF STATE AND FOREIGN OPERATIONS**

**SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008**

**DEPARTMENT OF STATE**

**ADMINISTRATION OF FOREIGN AFFAIRS**

**DIPLOMATIC AND CONSULAR PROGRAMS**

For an additional amount for "Diplomatic and Consular Programs", \$1,606,808,000, to remain available until September 30, 2009, of which \$210,508,000 for worldwide security protection is available until expended: Provided, That not more than \$1,295,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq: Provided further, That of the funds appropriated under this heading, not more than \$30,000,000 shall be available to establish and implement a coordinated civilian response capacity at the United States Department of State.

**OFFICE OF INSPECTOR GENERAL**

**(INCLUDING TRANSFER OF FUNDS)**

For an additional amount for "Office of Inspector General", \$7,500,000, to remain available until September 30, 2009: Provided, That \$2,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight.

**EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE**

For an additional amount for "Embassy Security, Construction, and Maintenance", \$76,700,000, to remain available until expended, for facilities in Afghanistan.

**INTERNATIONAL ORGANIZATIONS**

**CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS**

For an additional amount for "Contributions to International Organizations", \$53,000,000 to remain available until September 30, 2009.

**CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES**

For an additional amount for "Contributions for International Peacekeeping Activities,"

\$333,600,000, to remain available until September 30, 2009, for the United Nations–African Union Hybrid Mission in Darfur.

**BILATERAL ECONOMIC ASSISTANCE  
FUNDS APPROPRIATED TO THE PRESIDENT  
INTERNATIONAL DISASTER ASSISTANCE**

For an additional amount for “International Disaster Assistance”, \$200,000,000, to remain available until expended.

**OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT**

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$142,000,000, to remain available until September 30, 2009: Provided, That of the funds appropriated under this heading, not more than \$20,000,000 shall be available to establish and implement a coordinated civilian response capacity at the United States Agency for International Development.

**OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT OF-  
FICE OF INSPECTOR GENERAL**

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$4,000,000, to remain available until September 30, 2009.

**OTHER BILATERAL ECONOMIC ASSISTANCE  
ECONOMIC SUPPORT FUND**

For an additional amount for “Economic Support Fund”, \$1,747,000,000, to remain available until September 30, 2009, of which not more than \$440,000,000 may be made available for assistance for Iraq, \$150,000,000 shall be made available for assistance for Jordan to meet the needs of Iraqi refugees, and up to \$53,000,000 may be available for energy-related assistance for North Korea, notwithstanding any other provision of law: Provided, That not more than \$100,000,000 of the funds appropriated under this heading shall be made available for assistance for the West Bank and none of such funds shall be for cash transfer assistance: Provided further, That of the funds appropriated under this heading, \$1,000,000 shall be made available for the Office of the United Nations High Commissioner for Human Rights in Mexico: Provided further, That the funds made available under this heading for energy-related assistance for North Korea may be made available to support the goals of the Six Party Talks Agreements after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements.

**DEPARTMENT OF STATE  
DEMOCRACY FUND**

For an additional amount for “Democracy Fund”, \$75,000,000, to remain available until September 30, 2009, for democracy programs in Iraq.

**INTERNATIONAL NARCOTICS CONTROL AND LAW  
ENFORCEMENT**

For an additional amount for “International Narcotics Control and Law Enforcement”, \$419,300,000, to remain available until September 30, 2009: Provided, That not more than \$25,000,000 of the funds appropriated by this subchapter shall be made available for security assistance for the West Bank.

**MIGRATION AND REFUGEE ASSISTANCE**

For an additional amount for “Migration and Refugee Assistance”, \$300,000,000, to remain available until expended.

**UNITED STATES EMERGENCY REFUGEE AND  
MIGRATION ASSISTANCE FUND**

For an additional amount for “United States Emergency Refugee and Migration Assistance Fund”, \$25,000,000, to remain available until expended.

**NONPROLIFERATION, ANTI-TERRORISM, DEMINING  
AND RELATED PROGRAMS**

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$11,200,000, to remain available until September 30, 2009.

**MILITARY ASSISTANCE**

**FUNDS APPROPRIATED TO THE PRESIDENT  
FOREIGN MILITARY FINANCING PROGRAM**

For an additional amount for “Foreign Military Financing Program”, \$72,500,000, to remain available until September 30, 2009, of which up to \$66,500,000 shall be made available for assistance for Mexico.

**SUBCHAPTER B—BRIDGE FUND SUPPLE-  
MENTAL APPROPRIATIONS FOR FISCAL  
YEAR 2009**

**DEPARTMENT OF STATE**

**ADMINISTRATION OF FOREIGN AFFAIRS  
DIPLOMATIC AND CONSULAR PROGRAMS**

For an additional amount for “Diplomatic and Consular Programs”, \$737,900,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: Provided, That of the funds appropriated under this heading, \$78,400,000 is for worldwide security protection and shall remain available until expended: Provided further, That not more than \$581,500,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq.

**OFFICE OF INSPECTOR GENERAL  
(INCLUDING TRANSFERS OF FUNDS)**

For an additional amount for “Office of Inspector General”, \$57,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: Provided, That \$46,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight and up to \$5,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

**EMBASSY SECURITY, CONSTRUCTION, AND  
MAINTENANCE**

For an additional amount for “Embassy Security, Construction, and Maintenance,” \$41,300,000, which shall become available on October 1, 2008 and remain available until expended, for facilities in Afghanistan.

**INTERNATIONAL ORGANIZATIONS  
CONTRIBUTIONS TO INTERNATIONAL  
ORGANIZATIONS**

For an additional amount for “Contributions to International Organizations”, \$75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

**CONTRIBUTIONS FOR INTERNATIONAL  
PEACEKEEPING ACTIVITIES**

For an additional amount for “Contributions for International Peacekeeping Activities”, \$150,500,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

**RELATED AGENCY**

**BROADCASTING BOARD OF GOVERNORS  
INTERNATIONAL BROADCASTING OPERATIONS**

For an additional amount for “International Broadcasting Operations”, \$8,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

**BILATERAL ECONOMIC ASSISTANCE  
FUNDS APPROPRIATED TO THE PRESIDENT  
GLOBAL HEALTH AND CHILD SURVIVAL**

For an additional amount for “Global Health and Child Survival”, \$75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, for programs to combat avian influenza.

**DEVELOPMENT ASSISTANCE**

For an additional amount for “Development Assistance”, \$200,000,000, for assistance for de-

veloping countries to address the international food crisis notwithstanding any other provision of law, which shall become available on October 1, 2008 and remain available through September 30, 2010: Provided, That such assistance should be carried out consistent with the purposes of section 103(a)(1) of the Foreign Assistance Act of 1961: Provided further, That not more than \$50,000,000 should be made available for local or regional purchase and distribution of food: Provided further, That the Secretary of State shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of such funds to alleviate hunger and malnutrition, including a list of those countries facing significant food shortages.

**INTERNATIONAL DISASTER ASSISTANCE**

For an additional amount for “International Disaster Assistance”, \$200,000,000, which shall become available on October 1, 2008 and remain available until expended.

**OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT**

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$93,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

**OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT OF-  
FICE OF INSPECTOR GENERAL**

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$1,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

**OTHER BILATERAL ECONOMIC ASSISTANCE**

**ECONOMIC SUPPORT FUND**

For an additional amount for “Economic Support Fund,” \$1,147,300,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than \$100,000,000 may be made available for assistance for Iraq, \$100,000,000 shall be made available for assistance for Jordan, and \$15,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law: Provided, That not more than \$150,000,000 of the funds appropriated under this heading in this subchapter shall be made available for assistance for the West Bank.

**DEPARTMENT OF STATE**

**INTERNATIONAL NARCOTICS CONTROL AND LAW  
ENFORCEMENT**

For an additional amount for “International Narcotics Control and Law Enforcement”, \$204,500,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: Provided, That not more than \$50,000,000 of the funds made available by this subchapter shall be made available for security assistance for the West Bank and up to \$53,500,000 shall be made available for assistance for Mexico.

**MIGRATION AND REFUGEE ASSISTANCE**

For an additional amount for “Migration and Refugee Assistance”, \$350,000,000, which shall become available on October 1, 2008 and remain available until expended.

**NONPROLIFERATION, ANTI-TERRORISM, DEMINING  
AND RELATED PROGRAMS**

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$4,500,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008 and remain available through September 30, 2009.

## MILITARY ASSISTANCE

## FUNDS APPROPRIATED TO THE PRESIDENT

## FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program", \$170,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which \$100,000,000 shall be made available for assistance for Jordan and up to \$50,000,000 shall be made available for assistance for Mexico: Provided, That section 3802(c) of title III, chapter 8 of Public Law 110-28 shall apply to funds made available under this heading for assistance for Lebanon.

## PEACEKEEPING OPERATIONS

For an additional amount for "Peacekeeping Operations", \$85,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

SUBCHAPTER C—GENERAL PROVISIONS,  
THIS CHAPTER

## EXTENSION OF AUTHORITIES

SEC. 1401. Funds appropriated by this chapter may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

## AFGHANISTAN

SEC. 1402 (a) ASSISTANCE FOR WOMEN AND GIRLS.—Funds appropriated by this chapter under the heading "Economic Support Fund" that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, through local Afghan provincial and municipal governments and Afghan civil society organizations and in a manner that emphasizes the participation of Afghan women and directly improves the economic, social and political status of Afghan women and girls.

(b) HIGHER EDUCATION.—Of the funds appropriated by this chapter under the heading "Economic Support Fund" that are made available for education programs in Afghanistan, not less than 50 percent shall be made available to support higher education and vocational training programs in law, accounting, engineering, public administration, and other disciplines necessary to rebuild the country, in which the participation of women is emphasized.

(c) CIVILIAN ASSISTANCE.—Of the funds appropriated by this chapter under the heading "Economic Support Fund" that are available for assistance for Afghanistan, not less than \$2,000,000 shall be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund.

(d) ANTICORRUPTION.—Not later than 90 days after enactment of this Act, the Secretary of State shall—

(1) submit a report to the Committees on Appropriations on actions being taken by the Government of Afghanistan to combat corruption within the national and provincial governments, including to remove and prosecute officials who have committed corrupt acts;

(2) submit a list to the Committees on Appropriations, in classified form if necessary, of senior Afghan officials who the Secretary has credible evidence to believe have committed corrupt acts; and

(3) certify and report to the Committees on Appropriations that effective mechanisms are in place to ensure that assistance to national government ministries and provincial governments will be properly accounted for.

## WEST BANK

SEC. 1403. Not later than 90 days after the date of enactment of this Act, and 180 days thereafter, the Secretary of State shall submit to

the Committees on Appropriations a report on assistance provided by the United States for the training of Palestinian security forces, including detailed descriptions of the training, curriculum, and equipment provided; an assessment of the training and the performance of forces after training has been completed; and a description of the assistance that has been pledged and provided to Palestinian security forces by other donors: Provided, That not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Committees on Appropriations, in classified form if necessary, on the security strategy of the Palestinian Authority.

## MEXICO

SEC. 1404. (a) ASSISTANCE FOR MEXICO.—Of the funds appropriated under the headings "International Narcotics Control and Law Enforcement", "Foreign Military Financing Program", and "Economic Support Fund" in this chapter, not more than \$296,500,000 of the funds appropriated in subchapter A and \$103,500,000 of the funds appropriated in subchapter B shall be made available for assistance for Mexico, only to combat drug trafficking and related violent crime, and for judicial reform, institution building, and rule of law activities, of which not less than \$73,500,000 shall be used for judicial reform, institution building, and rule of law activities: Provided, That none of the funds made available under this section shall be made available for budget support or as cash payments: Provided further, That none of the funds made available under this section shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that relevant members and units of the Mexican armed forces and police forces that may receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—25 percent of the funds made available by this chapter for assistance for Mexico under the headings "International Narcotics Control and Law Enforcement" and "Foreign Military Financing Program" shall be withheld from obligation until the Secretary of State reports to the Committees on Appropriations on the requirements described in subsection (c).

(c) REQUIREMENTS.—The requirements referred to in subsection (b) are the following:

(1) The Government of Mexico is—

(A) improving the transparency and accountability of Federal police forces and engaging with state and municipal authorities to improve the transparency and accountability of state and municipal police forces through mechanisms such as police complaints commissions;

(B) ensuring meaningful engagement with civil society to monitor efforts to combat drug trafficking and related violent crime, judicial reform, institution building, and rule of law activities to ensure due process and the protection of freedom of expression, association, and assembly in accordance with Mexican and international law; and

(C) ensuring that, in accordance with applicable Mexican law, the Mexican armed forces and the Federal police forces are cooperating with civilian prosecutors and judicial authorities in investigating and prosecuting in the civilian justice system those individuals, including military personnel, who have been credibly alleged under Mexican law to have committed violations of internationally recognized human rights, and, consistent with Mexican and international law, is vigorously enforcing the prohibition on the use of testimony obtained through torture or other ill-treatment.

(2) The Federal Public Security Secretary and the Minister of Defense, respectively, in accordance with applicable Mexican law, are suspending or placing on administrative duty, those members of the Federal police and armed

forces who have been credibly alleged under Mexican law, to have committed violations of internationally recognized human rights or participated in corrupt acts and have established policies that reward respect for human rights, in particular regarding the use of force.

(3) The Attorney General and other relevant authorities of the Mexican Government are investigating and prosecuting members of the Mexican armed forces and police forces who have been credibly alleged under Mexican law to have committed violations of internationally recognized human rights.

(d) EXCEPTION.—Notwithstanding subsections (b) and (c), of the funds appropriated by subchapter A for assistance for Mexico under the heading "International Narcotics Control and Law Enforcement", \$3,000,000 shall be made available for technical and other assistance to enable the Government of Mexico to implement a unified national registry encompassing Federal, state, and municipal police officials, and \$5,000,000 may be made available to the Bureau of Alcohol, Tobacco, Firearms and Explosives to deploy special agents in Mexico to support Mexican law enforcement agencies in tracing seized firearms and investigating firearms trafficking cases: Provided, That section 484(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c(a)) shall not apply with respect to assistance for Mexico made available by this chapter.

(e) REPORT.—The report required in subsection (b) shall include a description of actions taken with respect to each requirement specified in subsection (c) and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(f) VETTING.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report, in classified form if necessary, detailing the procedures used to vet Mexican armed forces and police forces for eligibility to receive assistance under this section.

(g) NOTIFICATION.—Funds made available for Mexico by this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

(h) SPENDING PLAN.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for Mexico by this chapter, which shall include a strategy for combating drug trafficking and related violent crime, judicial reform, institution building, and rule of law activities, with concrete goals, actions to be taken, budget proposals, and anticipated results.

(i) CONSULTATION.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter until September 30, 2010, the Secretary of State shall consult with Mexican and internationally recognized human rights organizations on progress in meeting the requirements described in subsection (c).

## CENTRAL AMERICA

SEC. 1405. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A under the headings "International Narcotics Control and Law Enforcement", "Foreign Military Financing Program", "Nonproliferation, Anti-Terrorism, Demining and Related Programs", and "Economic Support Fund", \$61,500,000 shall be made available for assistance for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violent crime, and for judicial reform, institution building, rule of law activities, and maritime security: Provided, That of the funds appropriated under the heading "Economic Support Fund", \$15,000,000 shall be made available

through the United States Agency for International Development for an Economic and Social Development Fund for the countries of Central America: Provided further, That of the funds appropriated under the heading "International Narcotics Control and Law Enforcement", \$2,500,000 shall be made available for assistance for Haiti and \$2,500,000 shall be made available for assistance for the Dominican Republic: Provided further, That none of the funds shall be made available for budget support or as cash payments: Provided further, That none of the funds shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that Federal and municipal police forces and the armed forces of the countries of Central America that may receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—(1) Up to 75 percent of the funds appropriated under the headings "International Narcotics Control and Law Enforcement" and "Foreign Military Financing Program" in subchapter A that are available for assistance for the countries of Central America may be obligated prior to the certification and report by the Secretary of State required in paragraph (2).

(2) The balance of the funds may be obligated not less than 120 days after the date of the enactment of this Act if, before such obligation, the Secretary of State determines and reports to the Committees on Appropriations that the requirements in subsection (c) have been met.

(c) REQUIREMENTS.—The requirements referred to in subsection (b)(2) are the following:

(1) The International Law Enforcement Academy (ILEA) in San Salvador, El Salvador is establishing a vetting procedure for police and other public security officials attending programs at the ILEA.

(2) The countries of Central America are—

(A) vetting members and units of Federal and municipal police forces and the armed forces that may receive assistance to ensure such members and units have not been involved in human rights violations or corrupt acts;

(B) strengthening law enforcement capabilities, developing effective systems information exchange, improving demand reduction, and expanding public education, prevention, and treatment programs;

(C) improving controls on chemical precursors;

(D) adopting and implementing reforms that improve the capacity and protect the independence of the judiciary;

(E) reforming criminal procedures to ensure due process and training Federal and municipal police leadership in modern policing to curb police abuses;

(F) targeting organizational structures and financial and other assets of drug cartels;

(G) taking steps to curb corruption in law enforcement agencies; and

(H) suspending, prosecuting, and punishing members of the police forces who have been credibly alleged to have committed violations of human rights and corrupt acts, and establishing policies for members of such forces that reward respect for human rights, in particular regarding the use of force.

(d) REPORT.—The report required in subsection (b)(2) shall include actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary for which the response or action taken has been inadequate.

(e) VETTING.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations, in classified form if necessary, detailing the procedures used by the Government of the United States to vet the Federal and municipal police and the armed forces of the countries of Central America for eligibility to receive assistance under this section.

(f) NOTIFICATION.—Funds made available for the countries of Central America in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

(g) SPENDING PLAN.—Not later than 45 days after enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for the countries of Central America, Haiti and the Dominican Republic in subchapter A, which shall include a strategy for combating drug trafficking and related violent crime, judicial reform, institution building, and rule of law activities, with concrete goals, actions to be taken, budget proposals and anticipated results.

(h) CONSULTATION.—Not later than 90 days after the date of enactment of this Act and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with internationally recognized human rights organizations, and human rights organizations in the countries of Central America receiving assistance pursuant to this section, on progress in meeting the requirements described in subsection (c).

(i) DEFINITION.—For the purposes of this section, the term "countries of Central America" means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

#### BUYING POWER MAINTENANCE ACCOUNT (INCLUDING TRANSFER OF FUNDS)

SEC. 1406. (a) Of the funds appropriated under the heading "Diplomatic and Consular Programs" and allocated by section 3810 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28), \$26,000,000 shall be transferred to and merged with funds in the "Buying Power Maintenance Account": Provided, That of the funds made available by this chapter up to an additional \$74,000,000 may be transferred to and merged with the "Buying Power Maintenance Account", subject to the regular notification procedures of the Committees on Appropriations and in accordance with the procedures in section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). Any funds transferred pursuant to this section shall be available, without fiscal year limitation, pursuant to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by amending subparagraph (D) to read as follows:

"(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008."

#### RESCISSIONS

SEC. 1407. (a) WORLD FOOD PROGRAM.—(1) For an additional amount for a contribution to the World Food Program to assist farmers in countries affected by food shortages to increase crop yields, notwithstanding any other provision of law, \$20,000,000, to remain available until expended.

(2) Of the funds appropriated under the heading "Andean Counterdrug Initiative" in prior Acts making appropriations for foreign operations, export financing, and related programs, \$20,000,000 are rescinded.

(b) SUDAN.—(1) For an additional amount for "International Narcotics Control and Law Enforcement", \$10,000,000, for assistance for Sudan to support formed police units, to remain available until September 30, 2009, and subject to prior consultation with the Committees on Appropriations.

(2) Of the funds appropriated under the heading "International Narcotics Control and Law Enforcement" in prior Acts making appropriations for foreign operations, export financing, and related programs, \$10,000,000 are rescinded.

(c) Section 8002 of this Act shall not apply to this section.

#### ALLOCATIONS

SEC. 1408. (a) Funds provided in this chapter for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the explanatory statement printed in the Congressional Record accompanying this Act:

"Diplomatic and Consular Programs"

"Economic Support Fund".

(b) Any proposed increases or decreases to the amounts contained in such tables in the explanatory statement printed in the Congressional Record accompanying this Act shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

#### REPROGRAMMING AUTHORITY

SEC. 1409. Notwithstanding any other provision of law, to include minimum funding requirements or funding directives, funds made available under the headings "Development Assistance" and "Economic Support Fund" in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

#### SPENDING PLAN AND NOTIFICATION PROCEDURES

SEC. 1410. (a) SUBCHAPTER A SPENDING PLAN.—Not later than 45 days after the enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in subchapter A, except for funds appropriated under the headings "International Disaster Assistance", "Migration and Refugee Assistance", and "United States Emergency Refugee and Migration Assistance Fund".

(b) SUBCHAPTER B SPENDING PLAN.—The Secretary of State shall submit to the Committees on Appropriations not later than November 1, 2008, and prior to the initial obligation of funds, a detailed spending plan for funds appropriated or otherwise made available in subchapter B, except for funds appropriated under the headings "International Disaster Assistance", "Migration and Refugee Assistance", and "United States Emergency Refugee and Migration Assistance Fund".

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

#### TERMS AND CONDITIONS

SEC. 1411. Unless otherwise provided for in this Act, funds appropriated or otherwise made available by this chapter shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161), except that section 699K of such Act shall not apply to funds in this chapter.

#### TITLE II—DOMESTIC MATTERS

##### CHAPTER 1—COMMERCE, JUSTICE, AND SCIENCE

##### DEPARTMENT OF COMMERCE

##### BUREAU OF THE CENSUS

##### PERIODIC CENSUSES AND PROGRAMS

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Periodic Censuses and Programs", \$210,000,000, to remain available until expended, for necessary expenses related to the 2010 Decennial Census: Provided, That not less than \$3,000,000 shall be transferred to the "Office of Inspector General" at the Department of Commerce for necessary expenses associated with oversight activities of the 2010 Decennial Census: Provided further, That not less than \$1,000,000 shall be used only for a

reimbursable agreement with the Defense Contract Management Agency to provide continuing contract management oversight of the 2010 Decennial Census.

DEPARTMENT OF JUSTICE  
FEDERAL PRISON SYSTEM  
SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$178,000,000, to remain available until September 30, 2008.

CHAPTER 2—ENERGY AND WATER  
DEVELOPMENT  
DEPARTMENT OF DEFENSE—CIVIL  
DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS—CIVIL  
CONSTRUCTION

For an additional amount for "Construction", for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, \$2,835,000,000, to remain available until expended: Provided, That such sums shall not be available until October 1, 2008: Provided further, That the Secretary of the Army is directed to use \$1,997,000,000 of the funds provided herein to modify authorized projects in southeast Louisiana to provide hurricane, storm and flood damage reduction in the greater New Orleans and surrounding areas to the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations current at the time of enactment of this Act, and shall use \$1,077,000,000 of those funds for the Lake Pontchartrain and Vicinity project and \$920,000,000 of those funds for the West Bank and Vicinity project: Provided further, That, in addition, \$838,000,000 of the funds provided herein shall be for elements of Southeast Louisiana Urban Drainage project within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects, to provide for interior drainage of runoff from rainfall with a ten percent annual exceedance probability: Provided further, That the amounts provided herein shall be subject to a 65 percent Federal / 35 percent non-Federal cost share for the specified purposes: Provided further, That beginning not later than 60 days after the date of enactment of this Act, the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide monthly reports to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, \$2,926,000,000, to remain available until expended: Provided, That such sums shall not be available until October 1, 2008: Provided further, That funds provided herein shall be used to reduce the risk of hurricane and storm damages to the greater New Orleans metropolitan area, at full Federal expense, for the following: \$704,000,000 shall be used to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; \$90,000,000 shall be used for storm-proofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; \$459,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; \$53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; \$456,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; \$412,000,000 shall be

used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; \$393,000,000 shall be used for repair and restoration of authorized protections and floodwalls; and \$359,000,000 shall be used to complete the authorized protection for the Lake Pontchartrain and Vicinity Project and for the West Bank and Vicinity Project: Provided further, That beginning not later than 60 days after the date of enactment of this Act, the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide monthly reports to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds: Provided further, That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Assistant Secretary of the Army for Civil Works requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of completed elements and to hold and save the United States free from damages due to the construction, operation, and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: Provided further, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that is necessary to accomplish the established goals is authorized, subject to the approval of the House and Senate Committees on Appropriations.

CHAPTER 3—LABOR, HEALTH AND HUMAN  
SERVICES, AND EDUCATION  
DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION  
STATE UNEMPLOYMENT INSURANCE AND  
EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State Unemployment Insurance and Employment Service Operations" for grants to the States for the administration of State unemployment insurance, \$110,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, to be used for unemployment insurance workloads experienced by the States through September 30, 2008, which shall be available for Federal obligation through December 31, 2008.

CHAPTER 4—LEGISLATIVE BRANCH  
HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED  
MEMBERS OF CONGRESS

For payment to Annette Lantos, widow of Tom Lantos, late a Representative from the State of California, \$169,300: Provided, That section 8002 shall not apply to this appropriation.

TITLE III—VETERANS EDUCATIONAL  
ASSISTANCE

SHORT TITLE

SEC. 3001. This title may be cited as the "Post-9/11 Veterans Educational Assistance Act of 2008".

FINDINGS

SEC. 3002. Congress makes the following findings:

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many "G.I. Bills" enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United

States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE  
ARMED FORCES WHO SERVE AFTER SEPTEMBER  
11, 2001

SEC. 3003. (a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

**"CHAPTER 33—POST-9/11 EDUCATIONAL  
ASSISTANCE**

**"SUBCHAPTER I—DEFINITIONS**

**"Sec.**

**"3301. Definitions.**

**"SUBCHAPTER II—EDUCATIONAL ASSISTANCE**

**"3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.**

**"3312. Educational assistance: duration.**

**"3313. Educational assistance: amount; payment.**

**"3314. Tutorial assistance.**

**"3315. Licensure and certification tests.**

**"3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service.**

**"3317. Public-private contributions for additional educational assistance.**

**"SUBCHAPTER III—ADMINISTRATIVE PROVISIONS**

**"3321. Time limitation for use of and eligibility for entitlement.**

**"3322. Bar to duplication of educational assistance benefits.**

**"3323. Administration.**

**"3324. Allocation of administration and costs.**

**"SUBCHAPTER I—DEFINITIONS**

**"§3301. Definitions**

**"In this chapter:**

**"(1) The term 'active duty' has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b) of this title):**

**"(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A) of this title.**

**"(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.**

**"(2) The term 'entry level and skill training' means the following:**

**"(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.**

**"(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called 'A' School).**

**"(C) In the case of members of the Air Force, Basic Military Training and Technical Training.**

**"(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).**

**"(E) In the case of members of the Coast Guard, Basic Training.**

**"(3) The term 'program of education' has the meaning the meaning given such term in section**

3002 of this title, except to the extent otherwise provided in section 3313 of this title.

“(4) The term ‘Secretary of Defense’ has the meaning given such term in section 3002 of this title.

“SUBCHAPTER II—EDUCATIONAL ASSISTANCE

“§3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

“(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

“(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

“(1) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty; or

“(ii) is discharged or released from active duty as described in subsection (c).

“(2) An individual who—

“(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

“(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

“(3) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 36 months; or

“(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

“(4) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 30 months; or

“(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

“(5) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 24 months; or

“(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

“(6) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 18 months; or

“(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

“(7) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 12 months; or

“(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

“(8) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 6 months; or

“(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

“(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

“(1) A discharge from active duty in the Armed Forces with an honorable discharge.

“(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

“(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

“(4) A discharge or release from active duty in the Armed Forces for—

“(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

“(B) hardship; or

“(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

“(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

“(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

“(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

“(3) A period of service that is terminated because of a defective enlistment and induction based on—

“(A) the individual's being a minor for purposes of service in the Armed Forces;

“(B) an erroneous enlistment or induction; or

“(C) a defective enlistment agreement.

“(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the in-

dividual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of such subsection.

“§3312. Educational assistance: duration

“(a) IN GENERAL.—Subject to section 3695 of this title and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 of this title equal to 36 months.

“(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 of this title by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2) of this title.

“(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—(1) Any payment of educational assistance described in paragraph (2) shall not—

“(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

“(B) be counted against the aggregate period for which section 3695 of this title limits the individual's receipt of educational assistance under this chapter.

“(2) Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

“(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

“(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

“(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

“(3) The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

“§3313. Educational assistance: amount; payment

“(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

“(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f) of this title) and is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned).

“(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

“(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2) of this title, amounts as follows:

“(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

“(B) A monthly stipend in an amount as follows:

“(i) For each month the individual pursues the program of education, other than a program of education offered through distance learning, a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

“(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

“(I) \$1,000, multiplied by

“(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

“(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3) of this title, amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4) of this title, amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5) of this title, amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6) of this title, amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(7) In the case of an individual entitled to educational assistance under this chapter by

reason of section 3311(b)(8) of this title, amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(d) FREQUENCY OF PAYMENT.—(1) Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(2) Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

“(3) The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

“(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

“(2) The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

“(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

“(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1) of this title.

“(3) Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

“(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

“(2) The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

“(A) The amount equal to the lesser of—

“(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

“(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

“(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

“(3) Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less

shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

“(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

“(B) the number of course hours for full-time pursuit of such program of education.

“(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2) and (f)(2)(A) shall be paid directly to the educational institution concerned.

“(h) ESTABLISHED CHARGES DEFINED.—(1) In this section, the term ‘established charges’, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

“(2) Established charges shall be determined for purposes of this subsection on the following basis:

“(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

“(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

#### “§3314. Tutorial assistance

“(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title.

“(b) CONDITIONS.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

“(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

“(A) such benefits are essential to correct a deficiency of the individual in such course; and

“(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

“(c) AMOUNT.—(1) The amount of benefits described in subsection (a) that are payable under this section may not exceed \$100 per month, for a maximum of 12 months, or until a maximum of \$1,200 is utilized.

“(2) The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313 of this title.

“(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

#### “§3315. Licensure and certification tests

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b) of this title.

“(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

“(1) \$2,000; or

“(2) the fee charged for the test.

“(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

**“§3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service**

“(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—(1) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

“(2) The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) of this title at the time of the increase under paragraph (1).

“(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—(1) The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30 of this title. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

“(2) Eligibility for supplemental educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30 of this title, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 of this title shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

“(3) The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational payable under section 3022 of this title.

“(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

**“§3317. Public-private contributions for additional educational assistance**

“(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313 of this title), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

“(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the ‘Yellow Ribbon G.I. Education Enhancement Program’.

“(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

“(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions

to be made by the college or university concerned.

“(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

“(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

“(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

“(d) MATCHING CONTRIBUTIONS.—(1) In instances where the educational assistance provided an individual under section 3313(c)(1)(A) of this title does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

“(2) Amounts available to the Secretary under section 3324(b) of this title for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

“(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

**“SUBCHAPTER III—ADMINISTRATIVE PROVISIONS**

**“§3321. Time limitation for use of and eligibility for entitlement**

“(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual’s entitlement expires at the end of the 15-year period beginning on the date of such individual’s last discharge or release from active duty.

“(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3031 of this title shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 of this title with respect to the running of the 10-year period described in section 3031(a) of this title.

“(2) Section 3031(f) of this title shall apply with respect to the termination of an individual’s entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual’s entitlement to educational assistance under chapter 30 of this title, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 of this title shall be deemed to be a reference to 3312 of this title.

“(3) For purposes of subsection (a), an individual’s last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2) of this title.

**“§3322. Bar to duplication of educational assistance benefits**

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

“(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

“(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

“(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 3003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

**“§3323. Administration**

“(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) of this title shall apply to the provision of educational assistance under this chapter.

“(2) In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term ‘eligible veteran’ shall be deemed to refer to an individual entitled to educational assistance under this chapter.

“(3) In applying section 3474 of this title to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term ‘educational assistance allowance’ shall be deemed to refer to educational assistance payable under section 3313 of this title.

“(4) In applying section 3482(g) of this title to an individual entitled to educational assistance under this chapter for purposes of this section—

“(A) the first reference to the term ‘educational assistance allowance’ in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313 of this title; and

“(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with ‘equipment’.

“(b) INFORMATION ON BENEFITS.—(1) The Secretary of Veterans Affairs shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly prescribe in regulations.

“(2) The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102 of this title.

“(3) The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

“(c) REGULATIONS.—(1) The Secretary shall prescribe regulations for the administration of this chapter.

“(2) Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

**“§3324. Allocation of administration and costs**

(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.”.

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

**“§3. Post-9/11 Educational Assistance 3301”.**

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by inserting “33,” after “32,”; and

(ii) in subsection (c), by striking “both the program established by this chapter and the program established by chapter 106 of title 10” and inserting “two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10”.

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

“(4) Chapters 30, 32, 33, 34, 35, and 36 of this title.”.

(C) Section 16163(e) of title 10, United States Code, is amended by inserting “33,” after “32.”.

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting “33,” after “32,” each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690(b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking “or 32” and inserting “32, or 33”.

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of August 1, 2009—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual’s election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement

under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title (as so added), or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

(ii) the fraction—

(I) the numerator of which is—

(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

(II) the denominator of which is 36 months.

(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual’s entitlement to educational assistance under chapter 33 of such title (as so added).

(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALTY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2009.

INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL  
 SEC. 3004. (a) EDUCATIONAL ASSISTANCE BASED ON THREE-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (a)(1) of section 3015 of title 38, United States Code, is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph: “(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,321; and”;

(2) by redesignating subparagraph (D) as subparagraph (B).

(b) EDUCATIONAL ASSISTANCE BASED ON TWO-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (b)(1) of such section is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph: “(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,073; and”;

(2) by redesignating subparagraph (D) as subparagraph (B).

(c) MODIFICATION OF MECHANISM FOR COST-OF-LIVING ADJUSTMENTS.—Subsection (h)(1) of such section is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

“(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

“(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on August 1, 2008.

(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.

MODIFICATION OF AMOUNT AVAILABLE FOR REIMBURSEMENT OF STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION BENEFITS

SEC. 3005. Section 3674(a)(4) of title 38, United States Code, is amended by striking “may not exceed” and all that follows through the end and inserting “shall be \$19,000,000.”.

#### TITLE IV—EMERGENCY UNEMPLOYMENT COMPENSATION

##### FEDERAL-STATE AGREEMENTS

SEC. 4001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be

deemed to have exhausted such individual’s rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual’s base period; or

(2) such individual’s rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents’ allowances) payable to such individual during such individual’s benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 4002 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

##### EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

SEC. 4002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual’s benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents’ allowances) payable to the individual during the individual’s benefit year under such law; or

(B) 13 times the individual’s average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual’s weekly benefit amount for any week is the amount of regular compensation (including dependents’ allowances) under the State law payable to such individual for such week for total unemployment.

(c) SPECIAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, if, at the time that the individual’s account is exhausted or at any time thereafter, such individual’s State is in an extended benefit period (as determined under paragraph (2)), then, such account shall be augmented by an amount equal to the amount originally established in such account (as determined under subsection (b)(1)).

(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

(i) were applied by substituting “4” for “5” each place it appears; and

(ii) did not include the requirement under paragraph (1)(A); or

(C) such a period would then be in effect for such State under such Act if—

(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

(ii) such section 203(f)—

(I) were applied by substituting “6.0” for “6.5” in paragraph (1)(A)(i); and

(II) did not include the requirement under paragraph (1)(A)(ii).

##### PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 4003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary’s estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

##### FINANCING PROVISIONS

SEC. 4004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year

limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

#### FRAUD AND OVERPAYMENTS

SEC. 4005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

#### (c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

#### DEFINITIONS

SEC. 4006. In this title, the terms “compensation”, “regular compensation”, “extended compensation”, “benefit year”, “base period”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

#### APPLICABILITY

SEC. 4007. (a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending on or before March 31, 2009.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 4002 as of the last day of the last week (as determined in accordance with the applicable State law) ending on or before March 31, 2009, emergency unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such last day for which the individual meets the eligibility requirements of this title.

(2) LIMIT ON AUGMENTATION.—If the account of an individual is exhausted after the last day of such last week (as so determined), then section 4002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

(3) LIMIT ON COMPENSATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 30, 2009.

#### TITLE V—MEDICAID PROVISIONS

SEC. 5001. (a) MORATORIA ON CERTAIN MEDICAID REGULATIONS.—

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110-28.—Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28) is amended—

(A) by striking “prior to the date that is 1 year after the date of enactment of this Act” and inserting “prior to April 1, 2009”;

(B) in subparagraph (A), by inserting after “Federal Regulations” the following: “or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748)”;

(C) in subparagraph (C), by inserting before the period at the end the following: “, including the proposed regulation published on May 23, 2007 (72 Federal Register 28930)”.

(2) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110-173.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is amended—

(A) by striking “June 30, 2008” and inserting “April 1, 2009”;

(B) by inserting “, including the proposed regulation published on August 13, 2007 (72 Federal Register 45201),” after “rehabilitation services”;

(C) by inserting “, including the final regulation published on December 28, 2007 (72 Federal Register 73635),” after “school-based transportation”.

#### (3) ADDITIONAL MORATORIA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to a provision described in subparagraph (B), (C), or (D) if such restrictions are more restrictive in any aspect than those applied to the respective provision as of the date specified in subparagraph (E) for such provision.

(B) PORTION OF INTERIM FINAL REGULATION RELATING TO MEDICAID TREATMENT OF OPTIONAL CASE MANAGEMENT SERVICES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the

interim final regulation relating to optional State plan case management services under the Medicaid program published on December 4, 2007 (72 Federal Register 68077) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portion of such regulation as relates directly to implementing section 1915(g)(2)(A)(ii) of the Social Security Act, as amended by section 6052 of the Deficit Reduction Act of 2005 (Public Law 109-171), through the definition of case management services and targeted case management services contained in proposed section 440.169 of title 42, Code of Federal Regulations, but only to the extent that such portion is not more restrictive than the policies set forth in the Dear State Medicaid Director letter on case management issued on January 19, 2001 (SMDL #01-013), and with respect to community transition case management, the Dear State Medicaid Director letter issued on July 25, 2000 (Olmstead Update 3).

(C) PROPOSED REGULATION RELATING TO REDEFINITION OF MEDICAID OUTPATIENT HOSPITAL SERVICES.—The provision described in this subparagraph is the proposed regulation relating to clarification of outpatient clinic and hospital facility services definition and upper payment limit under the Medicaid program published on September 28, 2007 (72 Federal Register 55158) in its entirety.

(D) PORTION OF PROPOSED REGULATION RELATING TO MEDICAID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9685) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portions of such regulation as relate to the following:

(I) REDUCTION IN THRESHOLD.—The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109-171).

(E) DATE SPECIFIED.—The date specified in this subparagraph for the provision described in—

(i) subparagraph (B) is December 3, 2007;

(ii) subparagraph (C) is September 27, 2007; or

(iii) subparagraph (D) is February 21, 2008.

(b) FUNDS TO REDUCE MEDICAID FRAUD AND ABUSE.—

(1) IN GENERAL.—For purposes of reducing fraud and abuse in the Medicaid program under title XIX of the Social Security Act—

(A) there is appropriated to the Secretary of Health and Human Services, out of any money in the Treasury not otherwise appropriated, \$25,000,000, for fiscal year 2009; and

(B) there is authorized to be appropriated to the Secretary \$25,000,000 for fiscal year 2010 and each subsequent fiscal year.

Amounts appropriated under this section shall remain available for expenditure until expended and shall be in addition to any other amounts appropriated or made available to the Secretary for such purposes with respect to the Medicaid program.

(2) ANNUAL REPORT.—Not later than September 30 of 2009 and of each subsequent year, the Secretary of Health and Human Services shall submit to the Committee on Energy and

Commerce of the House of Representatives and the Committee on Finance of the Senate a report on the activities (and the results of such activities) funded under paragraph (1) to reduce waste, fraud, and abuse in the Medicaid program under title XIX of the Social Security Act during the previous 12 month period, including the amount of funds appropriated under such paragraph for each such activity and an estimate of the savings to the Medicaid program resulting from each such activity.

(c) STUDY AND REPORTS TO CONGRESS.—

(1) SECRETARIAL REPORT IDENTIFYING PROBLEMS.—Not later than July 1, 2008, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that—

(A) outlines the specific problems the Medicaid regulations referred to in the amendments made by paragraphs (1) and (2) of subsection (a) and in the provisions described in subparagraph (B) through (D) of paragraph (3) of such subsection were intended to address;

(B) detailing how these regulations were designed to address these specific problems; and

(C) cites the legal authority for such regulations.

(2) INDEPENDENT COMPREHENSIVE STUDY AND REPORT.—

(A) IN GENERAL.—Not later than July 1, 2008, the Secretary of Health and Human Services shall enter into a contract with an independent organization for the purpose of—

(i) producing a comprehensive report on the prevalence of the problems outlined in the report submitted under paragraph (1);

(ii) identifying strategies in existence to address these problems; and

(iii) assessing the impact of each regulation referred to in such paragraph on each State and the District of Columbia.

(B) ADDITIONAL MATTER.—The report under subparagraph (A) shall also include—

(i) an identification of which claims for items and services (including administrative activities) under title XIX of the Social Security Act are not processed through systems described in section 1903(r) of such Act;

(ii) an examination of the reasons why these claims for such items and services are not processed through such systems; and

(iii) recommendations on actions by the Federal government and the States that can make claims for such items and services more accurate and complete consistent with such title.

(C) DEADLINE.—The report under subparagraph (A) shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than March 1, 2009.

(D) COOPERATION OF STATES.—If the Secretary of Health and Human Services determines that a State or the District of Columbia has not cooperated with the independent organization for purposes of the report under this paragraph, the Secretary shall reduce the amount paid to the State or District under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) by \$25,000 for each day on which the Secretary determines such State or District has not so cooperated. Such reduction shall be made through a process that permits the State or District to challenge the Secretary's determination.

(3) FUNDING.—

(A) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary without further appropriation, \$5,000,000 to carry out this subsection.

(B) AVAILABILITY; AMOUNTS IN ADDITION TO OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVITIES.—Amounts appropriated pursuant to subparagraph (A) shall—

(i) remain available until expended; and

(ii) be in addition to any other amounts appropriated or made available to the Secretary of Health and Human Services with respect to the Medicaid program.

(d) ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.—

(1) ADDITION OF AUTHORITY.—Title XIX of the Social Security Act is amended by inserting after section 1939 the following new section:

“ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

“SEC. 1940. (a) IMPLEMENTATION.—

“(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

“(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall—

“(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

“(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

“(3) PHASE-IN.—

“(A) IN GENERAL.—

“(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

“(ii) IMPLEMENTATION IN OTHER STATES.—The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

“(I) 12.5 percent by the end of fiscal year 2009.

“(II) 25 percent by the end of fiscal year 2010.

“(III) 50 percent by the end of fiscal year 2011.

“(IV) 75 percent by the end of fiscal year 2012.

“(V) 100 percent by the end of fiscal year 2013.

“(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

“(C) STATES SPECIFIED.—The States specified in this subparagraph are California, New York, and New Jersey.

“(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

“(4) EXEMPTION OF TERRITORIES.—This section shall only apply to the 50 States and the District of Columbia.

“(b) ASSET VERIFICATION PROGRAM.—

“(1) IN GENERAL.—For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

“(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are material to the determination of the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any

financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

“(B) uses the authorization provided under subparagraph (A) to verify the financial resources of such applicant or recipient (and such other person, as applicable), in order to determine or redetermine the eligibility of such applicant or recipient for medical assistance under the State plan.

“(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

“(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act, an authorization provided to a State under subsection (b)(1) shall remain effective until the earliest of—

“(1) the rendering of a final adverse decision on the applicant's application for medical assistance under the State's plan under this title;

“(2) the cessation of the recipient's eligibility for such medical assistance; or

“(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1), as applicable) of the authorization, in a written notification to the State.

“(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

“(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

“(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

“(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act and of section 1102 of such Act, relating to a reasonable description of financial records.

“(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

“(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

“(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

“(h) TECHNICAL ASSISTANCE.—The Secretary shall provide States with technical assistance to aid in implementation of an asset verification program under this section.

“(i) **REPORTS.**—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

“(j) **TREATMENT OF PROGRAM EXPENSES.**—Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.”.

(2) **STATE PLAN REQUIREMENTS.**—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69) by striking “and” at the end;

(B) in paragraph (70) by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (70), as so amended, the following new paragraph:

“(71) provide that the State will implement an asset verification program as required under section 1940.”.

(3) **WITHHOLDING OF FEDERAL MATCHING PAYMENTS FOR NONCOMPLIANT STATES.**—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (22) by striking “or” at the end;

(B) in paragraph (23) by striking the period at the end and inserting “; or”; and

(C) by adding after paragraph (23) the following new paragraph:

“(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical assistance for individuals subject to asset verification under such section, unless—

“(A) the State demonstrates to the Secretary’s satisfaction that the State made a good faith effort to comply;

“(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

“(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.”.

(4) **REPEAL.**—Section 4 of Public Law 110–90 is repealed.

(e) **ADJUSTMENT TO PAQI FUND.**—Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w-4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(1) in subparagraph (A)(i)—

(A) in subclause (III), by striking “\$4,960,000,000” and inserting “\$3,940,000,000”; and

(B) by adding at the end the following new subclause:

“(IV) For expenditures during 2014, an amount equal to \$3,750,000,000.”;

(2) in subparagraph (A)(ii), by adding at the end the following new subclause:

“(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.”; and

(3) in subparagraph (B)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:

“(iv) 2014 for payment with respect to physicians’ services furnished during 2014.”.

## TITLE VI—ACCOUNTABILITY AND TRANSPARENCY IN GOVERNMENT CONTRACTING

### CHAPTER 1—CLOSE THE CONTRACTOR FRAUD LOOPHOLE

#### SHORT TITLE

SEC. 6101. This chapter may be cited as the “Close the Contractor Fraud Loophole Act”.

#### REVISION OF THE FEDERAL ACQUISITION REGULATION

SEC. 6102. The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007–006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

#### DEFINITION

SEC. 6103. In this chapter, the term “covered contract” means any contract in an amount greater than \$5,000,000 and more than 120 days in duration.

### CHAPTER 2—GOVERNMENT FUNDING TRANSPARENCY

#### SHORT TITLE

SEC. 6201. This chapter may be cited as the “Government Funding Transparency Act of 2008”.

#### FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN RECIPIENTS OF FEDERAL AWARDS

SEC. 6202. (a) **DISCLOSURE REQUIREMENTS.**—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109–282; 31 U.S.C. 6101 note) is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following new subparagraph:

“(F) the names and total compensation of the five most highly compensated officers of the entity if—

“(i) the entity in the preceding fiscal year received—

“(I) 80 percent or more of its annual gross revenues in Federal awards; and

“(II) \$25,000,000 or more in annual gross revenues from Federal awards; and

“(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.”.

(b) **REGULATIONS REQUIRED.**—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter. Such regulations shall include a definition of “total compensation” that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation).

### TITLE VII—GI BILL FINANCING PROVISION

#### GI BILL FINANCING PROVISION

SEC. 7001. (a) **IN GENERAL.**—Part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 1 the following new section:

“**SEC. 1A. INCREASE IN TAX ON HIGH INCOME INDIVIDUALS TO FINANCE THE GI BILL.**

“(a) **GENERAL RULE.**—In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 0.47 percent of so much of modified adjusted gross income as exceeds \$500,000 (\$1,000,000 in the case of a joint

return or a surviving spouse (as defined in section 2(a)).

“(b) **MODIFIED ADJUSTED GROSS INCOME.**—For purposes of this section, the term ‘modified adjusted gross income’ means adjusted gross income reduced by any deduction allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, a rule similar to the rule of section 67(e) shall apply for purposes of determining adjusted gross income for purposes of this section.

“(c) **NONRESIDENT ALIEN.**—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed by section 871(b) shall be taken into account under this section.

“(d) **MARITAL STATUS.**—For purposes of this section, marital status shall be determined under section 7703.

“(e) **NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.**—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for part I of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 1 the following new item:

“Sec. 1A. Increase in tax on high income individuals to finance the GI bill.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(d) **SECTION 15 NOT TO APPLY.**—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

### TITLE VIII—GENERAL PROVISIONS

#### AVAILABILITY OF FUNDS

SEC. 8001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

#### EMERGENCY DESIGNATION

SEC. 8002. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

#### SHORT TITLE

SEC. 8003. This Act may be cited as the “Supplemental Appropriations Act, 2008”.

#### AMENDMENT NO. 4789

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, I move to concur in the House amendment—that is amendment No. 2—with an amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment No. 2 with an amendment numbered 4789.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today’s RECORD under “Text of Amendments.”)

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

#### AMENDMENT NO. 4790 TO AMENDMENT NO. 4789

Mr. REID. Mr. President, I have a second-degree amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4790 to amendment No. 4789.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

I ask unanimous consent to speak from my desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair, Mr. President.

SENATOR TED KENNEDY

Mr. President, before we begin consideration of this important spending bill, I wish to take a moment to say how distraught and terribly shaken I am over the news of my dear friend, my dear, dear friend, TED KENNEDY. My thoughts and my humble prayers are with Senator KENNEDY, my dear friend, TED; with his wife Vicki; and with the members of the Kennedy family.

I hope and pray that an all-caring, unlimited God will watch over TED and keep TED here for us and for America. TED, TED, my dear friend, I love you and I miss you. And Erma, Erma, my darling wife Erma, would say: Thank God for you, TED. Thank God for you.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this afternoon we take up legislation making emergency supplemental appropriations for the wars in Iraq and Afghanistan and to help Americans cope with a sagging economy. One year ago, Congress sent the President a war funding supplemental that included clear direction to bring our troops home, home, home, sweet home, from Iraq by December of 2007. The President chose to do what? Shame. He chose to veto that bill. If he had signed that bill, most of our troops would be home, home, home, sweet home today. Instead of bringing our troops home, the President demanded an increase in our commitment of U.S. troops—shame—and treasure to this terrible, awful war that has now entered its sixth year—sixth year. How long? How long, O Lord, how long?

Mr. President, 4,081 American soldiers have died—died. One can only die once. Over 30,000 U.S. soldiers have been wounded. By the end of 2008, the war in Iraq will have cost over \$608 billion—over \$608 billion. That is more than \$608 for every minute since Jesus Christ was born.

Today we are considering the President's request for another \$178 billion—

another \$178-billion for the wars at a time when the U.S. economy is in trouble. Well, one thing is clear. Yes, I am sorry to say one thing is clear in this request: American fighting men and women—your brothers and sisters and mine—will continue to be in Iraq when the Presidency of George W. Bush ends on January 20, 2009. Shame. I was against that terrible, horrible war from the beginning and so stated on this floor time after time after time.

Long after our military fulfilled its mission in Iraq, the White House failed to advance a viable strategy for establishing long-term stability in Iraq. In response, we in the Congress will support our troops—your troops, my troops, our troops—but we will also continue our efforts to get our troops out—O-U-T—of Iraq with honor and take care of our troops after they come home.

In the third committee amendment, we set a goal for reducing the scope of the mission in Iraq by June of 2009. We ensure our troop readiness levels are maintained. We limit the time our troops will serve in Iraq. We require Iraq to use more of its surplus oil revenues for reconstruction costs, and we require that any long-term commitments this lameduck President may make with the Government of Iraq be considered as treaties, subject to approval by this Senate.

While the war continues in its sixth year—shame—our economy at home is in trouble. Because of President Bush's failed fiscal leadership, in the last 7 years the U.S. Government has amassed the five largest deficits in the history of this great Republic. President Bush has more than doubled the U.S. debt held by China, Japan, and other countries. Economic growth almost came to a halt at the end of last year, with the gross domestic product falling from 4.9 percent in the third quarter to 0.6 percent—0.6 percent—in the fourth quarter.

Growth remains at a paltry 0.6 percent this year. Since March 2007, the number of unemployed has increased by 1.1 million workers up to 7.8 million workers. In April, the number of Americans who were out of work for at least 27 weeks rose to 1.35 million.

Yet the President—your President, my President, our President—is satisfied to allow unemployment benefits to expire after just 26 weeks. Did you hear that? Shame. I have reviewed the President's request carefully, and there is no evidence—none—of the President asking for funding to invest in America or to help struggling Americans deal with the faltering economy.

Yet the President—your President, this President, our President—has already thrown down the gauntlet by threatening to veto the supplemental bill if the Congress has the temerity—did you hear that—to add one thin dime above his request in order to help our citizens at home.

Thirty-two months after Hurricane Katrina, the President continues to re-

sist efforts to help the victims of that terrible storm. The homeless population in New Orleans has doubled to nearly 12,000 since Hurricane Katrina. Only 48 percent of the pre-Katrina hospital beds in the region were staffed as of November of 2006. Violent crime in Louisiana grew 53 percent last year.

In the last 18 months, the President has designated 61 disasters for floods in 32 States. Yet the President has not—n-o-t, not—you know, there was a duel between John Shot and John Not. In this case, it was better to be Shot than Not. The President has not requested funds to repair levees or other flood prevention efforts, leaving our citizens in Arkansas—did you hear that—Missouri, Louisiana, and other States, vulnerable to more flooding. But when it comes to Iraq, the President wants the dollars to flow, flow, flow.

Congress has already approved \$45 billion requested by the President for reconstruction projects in Iraq. Despite the fact that the Iraqi Government is running a huge surplus due to excess oil revenues, our President—your President, my President, the American President—is asking this Congress—the buck stops here—asking you and me and the people in this Congress to approve another \$5.6 billion of American taxpayer dollars for reconstruction in Iraq.

The President claims that by adding funding for America to this bill we are holding hostage money for the troops. Oh, my heavens, what hogwash. What hogwash. Last year, we sent the President a war supplemental that increased funding to provide better health care for our soldiers, better health care for our veterans, more funding to equip and train the National Guard and Reserve, more funding for mine resistant vehicles, and clear direction to bring our troops home—home sweet home. This year, we once again take care of our troops, but we also invest in America.

Last week, the Senate Appropriations Committee met and approved amendments that meet these objectives. Based on the committee action, the Senate will consider amendments that fully fund the President's request for the war. In fact, the legislation increases funding above the President's \$168 billion request for the Department of Defense. We include increases for the health care of our troops, for Guard and Reserve equipment, for repairing and constructing barracks, for the mission in Afghanistan, for military childcare facilities, for improving contract management, and for helping—yes, Senator WEBB—wounded troops returning home—home sweet home.

We honor those who have served America by increasing educational benefits for our veterans. We extend unemployment benefits by another 13 weeks. We honor promises made to the victims of Hurricane Katrina by funding a 100-year levee in Louisiana, restoring barrier islands in Mississippi, and by rebuilding hospitals, helping

the homeless, and fighting crime. We roll back Medicaid regulations that our Nation's Governors believe disrupt health coverage for vulnerable citizens. We respond to dramatic increases in food prices by increasing funding for the global food aid program.

We are also generous in providing humanitarian relief to disaster victims in China, Bangladesh, and Burma. We reduce funding for reconstruction in Iraq. We limit the size of taxpayer-financed reconstruction projects. And we require Iraq to match our tax dollars with their surplus oil revenues.

This legislation includes provisions that have broad bipartisan support. The veterans legislation has 58 cosponsors. The Medicaid legislation passed the House by a vote of 349 to 62. I have a letter from 56 Senators seeking additional Byrne crimefighting funding. We fund the Rural Schools Program, which runs out of money on June 30, 2008.

In total, the amendments include \$194 billion for programs under the jurisdiction of the Appropriations Committee, \$10 billion above the President's request. This increase is less than what we spend in Iraq in 1 month.

So I say to my fellow Senators, Mr. President, this is responsible legislation that supports our troops, responsible legislation that honors our veterans, responsible legislation that helps our citizens cope with a troubled economy.

I urge the adoption of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi, Mr. COCHRAN.

Mr. COCHRAN. Mr. President, we are still wrestling with the challenge of what to do about the supplemental appropriations that have been requested by the administration.

This morning, in our Appropriations Subcommittee on Defense, chaired by the distinguished Chair's State colleague, Mr. INOUE, and also led on the Republican side by the distinguished Senator from Alaska, Mr. STEVENS, we heard testimony from the Secretary of Defense, Mr. Gates, and the Chairman of the Joint Chiefs of Staff, Admiral Mullen. They drew a very frightening picture of what is happening to the military forces, not just in Iraq and Afghanistan and deployed elsewhere in the world, but also in our training accounts, many other support activities for our military, pay and allowances—all the accounts that fund the Department of Defense that have been included in the supplemental budget request are suffering and many are running dry. The accounts are running dry.

We are at a point that is past serious. I am not going to say it is desperate, but it certainly concerns this Senator that we continue to wait and wait and wait on Congress to act on the President's request for supplemental appropriations for our military forces at a time when they are engaged in military action overseas and protecting our

security interests here at home. So I am pleased the Senate is taking up this request to fund activities in Afghanistan and Iraq and to respond to domestic natural disasters.

It is important that we act expeditiously to consider this legislation so we can reconcile our differences with the other body and with the President. The President submitted the bulk of his supplemental request in February 2007 in conjunction with his regular fiscal year 2008 budget submission. He did so because Congress clearly expressed its desire for a full-year estimate of war costs. But Congress did not appropriate a full year's funding. Instead, Congress approved a \$70 billion bridge fund to support our operations in Iraq and Afghanistan. Enacting even that amount required a protracted struggle among the House, the Senate, and the President. As a result, the Department of Defense had to issue furlough notices, make a series of inefficient transfers and reprogrammings, and generally function in ways that detracted from its primary duties.

We find ourselves today facing a very similar situation. It has been more than 15 months since the President submitted this request. We have not approved or otherwise acted upon some \$108 billion of that request.

The personnel and operations and maintenance accounts that support our activities in Iraq and Afghanistan are running low. This morning, Secretary Gates was asked about the consequences of this situation, and I am going to read into the RECORD, with the permission of my colleagues, some comments directly from that hearing this morning. This is Secretary Gates:

There is, however, a more immediate concern. Congress has yet to pass the pending \$102.5 billion global war on terror request for fiscal year 2008. And as a result, the Defense Department is currently using fourth quarter funds from the base budget to cover current war costs. Shortly, two critical accounts will run dry. First, Army military personnel after June 15. We will run out of funds in this account to pay soldiers, including those in Iraq and Afghanistan. Second, operations and maintenance accounts. Around July 5, O&M funds across the services will run out, starting with the Army. This may result in civilian furloughs, limits on training, and curbing family support activities.

If war funds are not available, the Defense Department can transfer funds from Navy and Air Force military personnel accounts to pay soldiers, but that would get us only to late July. Using the limited transfer authority granted by Congress would also help get us to late July. Doing so, however, is a shell game which will disrupt existing programs and push the services O&M accounts to the edge of fiscal viability.

I could go on. He went on into some more detail about other accounts. I think we get the picture. I got the picture.

Our full subcommittee membership was in attendance for most of the hearing. I was disappointed that I was sitting there listening to the consequences of deliberate actions by the Congress to delay the availability of

funding for our national defense, not just war funding for Iraq and Afghanistan; it has implications across the Department of Defense and into other accounts in other departments that are likewise affected by this denial of funding for our forces at a time when we need them to be fully prepared, fully trained, and fully engaged to help win the war against terror.

According to an earlier letter, so you won't get the impression that we have not been forewarned, the Deputy Secretary of Defense, Gordon England, wrote us a letter on May 15 advising us that the Army would run out of military personnel funds by mid-June. He said if the supplemental legislation is not enacted by Memorial Day, the Department of Defense will be compelled to borrow funds from other services to finance Army operations into July and the Army would be out of options to pay its soldiers. He said the Department would be compelled to constrain expenditures from the Army operations and maintenance accounts. He said it will have to issue notices of potential furloughs of civilians funded from this account.

So we have been on notice from the Deputy Secretary and now this morning from the Secretary himself, as well as the Chairman of the Joint Chiefs of Staff.

We have been advised that the operations and maintenance accounts also fund the Commander's Emergency Response Program, a program that is critical to the success of our military commanders in Iraq and Afghanistan. He said those funds will run out in June.

I ask unanimous consent, Mr. President, to have printed in the RECORD the letter from Secretary England.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE  
Washington, DC, May 15, 2008.

Hon. THAD COCHRAN  
Ranking Member, Committee on Appropriations,  
U.S. Senate, Washington, DC.

DEAR SENATOR COCHRAN: I am writing you to follow up on the Secretary's letter of May 5 regarding the Department's financial posture and the urgent need for Congress to pass supplemental funding legislation for the Global War on Terror (GWOT).

As briefed to senior Congressional staff last week, absent additional Congressional action, the Army will run out of Military Personnel funds by mid-June and Operation and Maintenance (O&M) funds by early July. Funding for civilian personnel is included in the O&M account. Also included within the O&M account is the authority to continue the Commander's Emergency Response Program (CERP) activities in Central Command. CERP funding is a critical enabler that our ground force commanders are using on a daily basis in Iraq and Afghanistan to shape the strategic environment. This authority will be fully expended in June, and reprogramming actions cannot extend this particular authority.

If GWOT supplemental legislation is not enacted by Memorial Day, then the Department will submit to the Congress two reprogramming actions on May 27. These reprogramming actions for personnel and for

O&M accounts will finance Army operations until late July by borrowing money from other Services. By that point in late July, the entire Department will be in extremis, having exhausted all avenues of funding and will be unable to make payroll for both military and civilian personnel throughout the Department. Service members, including those engaged in Iraq and Afghanistan, would continue to serve but without pay since military personnel accounts would be exhausted.

Further, at that time, O&M funding would also be depleted, and DoD activities around the globe would be reduced to essential activities. Additionally, other measures would need to be taken, such as civilian furloughs and limits on non-essential operations. These highly disruptive steps would have to begin well before late July.

While the Department has the reprogramming recourse on May 27th as discussed, if legislation is not passed by Memorial Day, the Department will still be operating with less than the desired effectiveness and efficiency. Therefore, I urge you to provide the essential GWOT funding before the Memorial Day recess.

Sincerely,

GORDON ENGLAND,  
*Deputy Secretary of Defense.*

Mr. COCHRAN. Mr. President, what are we going to do? Are we going to let our men and women in the field stop their activities? Is that what Congress is urging be done, just sit down, stop what you are doing in Iraq and Afghanistan? I don't believe that. That is not the message this Senate wants to send or intends to send. But we should not put the men and women of our Armed Forces and their families here at home through such an ordeal and a period of such unnecessary uncertainty. We should not cause the Department of Defense to operate at less than peak efficiency or take actions that are demoralizing for Department personnel simply because Congress fails to act in a timely manner.

I don't know why it has taken Congress so long to act. I do know the request has been before the Congress for more than 15 months. Think about it: an emergency supplemental request for funds for national security languishing in Congress for 15 months. Most people don't know that.

We have held hearings, we have had meetings with administration officials, we have heard testimony from General Petraeus, our commander in Iraq. Our Ambassador in Iraq has testified about the consequences on accounts for the Department of State which are also included in the legislation. But instead of marking up a supplemental bill to respond to the request a month ago, as had originally been planned, the majority chose to spend weeks talking with the majority in the other body, trying to decide what to do, when to do it, negotiating with themselves.

I would have hoped that the legislation could have been brought up under a better parliamentary scheme designed to get the job done, not to just create political advantage, not just to put off the inevitable day of reckoning. That is an unfortunate choice to make. The fact is, had we followed the regular

order, we could have had a bill to the President by now. Had he chosen to veto the bill, we might well be working this week to resolve differences with the administration and produce a bill that could be signed or whatever the Congress decided to do to work its will, but to act. Instead, we are facing the approach of a Memorial Day recess with no clear path, no clear plan to enactment of legislation and little prospect for meaningful input by Members of the Senate.

I applaud the chairman of the Appropriations Committee, my good friend from West Virginia, for calling our committee to a markup of the supplemental. When it became apparent that the leadership plan was to bypass the Appropriations Committee in both Houses, our side wrote a letter to the chairman expressing our preference for a committee markup. I suspected that was consistent with his views, too, and that was correct.

We know about the prerogatives of the Appropriations Committee and how the chairman safeguards those and how he respects all members of our committee. So he honored that request. But the other body has not acted in this way. There still has been no markup in the other body.

So we are in this dilemma. We are asked by our respective Houses—the Appropriations Subcommittee on Defense—to make recommendations, to produce legislation to take care of our country, to defend our interests, but we have not found a pathway to enacting a bill or responding in a professional way to the wishes of our Members.

As it stands now, the Senate amendments contain a number of legislative provisions and appropriations that were not included in the President's request. The President has said very clearly he will veto this bill if it includes language that unduly constrains our military commanders in the field in Iraq and Afghanistan or which imposes artificial timelines for withdrawal. He has also said he will veto a bill that is too costly.

I am not one who thinks an appropriations request submitted by this President or any other President is written in holy tablets, somehow immutable and not subject to improvement or change during the legislative process. The Senate and the House have a right to work their will. Since the President saw fit to recommend certain measures to protect the State of Louisiana from future hurricanes in response to Members' requests for those funds, I thought it appropriate to recommend certain projects that would similarly be helpful to my State, which was also a victim of Katrina, to deal with the continuing challenges to the security and the well-being of the citizens of that region if other hurricanes strike in the future.

The President has every right to look at those requests and make his decision. But I do not think he is going to veto this bill because of those requests

that are included in the bill. I think he is sympathetic to the needs of the Mississippi and Louisiana gulf coasts and elsewhere in the country, so accounts that were depleted because of the destruction of the hurricane can be renewed and resupplied in this supplemental. The committee has approved including those funds.

We need to find common ground. This is what I am saying. We have had differences of opinion with the administration—Members on my side have; some on the other side have—for various reasons. But let's get to a point where we can work out our differences. If he wants to veto the bill, he will veto the bill, and we will see whether we have the votes to override it. If we do not, we can try again. Eventually these funds have to be made available. These requests are too important to be ignored any longer. We need to find common ground. That is what I am saying. And we need to do it now.

We do not need to prolong this activity—describe it however you want to—any longer. We need to get down to brass tacks. We cannot allow political maneuvering on either side to obscure our core duty in this matter. We need to provide our men and women in the field with the resources necessary to conduct successfully the mission assigned to them by our Government, and to do it without undue delay.

I do not think the exchange of messages—strategy, or whatever you want to call it—is appropriate or necessary as a substitute for legislation. I do not think it will result in an enacted bill any sooner than had we simply acted in the regular order. But that choice has been made, and we must deal with it. I will do my best. I commit myself to work with the Senate leadership, with our colleagues in the other body, and with the President to find a way to get the job done in a timely manner.

I yield the floor.

Mr. BYRD. Hear, hear.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank Senator COCHRAN for his views and his many courtesies. Last week the Senate Appropriations Committee had a 3½-hour markup of the important legislation that is now before the Senate. I hope the Senate can approve this legislation to support the troops and to help Americans cope with the sagging economy—this week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I ask unanimous consent I be allowed to engage in a colloquy with the senior Senator from Nebraska and the senior Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEBB. Mr. President, I would like to join two of my three principal cosponsors on S. 22 in speaking about how important this piece of legislation

is, and how appropriate it is to have it be placed on the supplemental appropriations measure. The senior Senator from Virginia has an amendment we are going to offer. Hopefully, in the spirit of what the Senator from Mississippi just said, we will try to lay some of these arguments by the way-side and get a bill that will truly provide the right kind of readjustment benefits to those who have been performing such exemplary service since 9/11.

S. 22 was introduced on the first day of this Congress. From that point we have had strong bipartisan and bicameral support. We now have 58 cosponsors in the Senate, including 11 Republicans. Among those Republicans is the senior Senator from Virginia, the former chairman of the Armed Services Committee, and the senior Senator from Nebraska, the only Member of this body to have served in a high-ranking position in the Department of Veterans Affairs.

Just last week in the House, in spite of some of the debates that went into pay-for provisions and tax provisions, we saw a strong vote. We had 300 sponsors of this provision in the House, including more than 90 Republicans. Even on what was largely viewed as a partisan vote in other areas, we had 33 Republicans vote for this bill.

This bill is supported by the current chairman of the Armed Services Committee; as I mentioned, Senator WARNER, the former chairman of the Armed Services Committee and the former Secretary of the Navy; the serving chairman of the Veterans' Committee, Senator AKAKA, who was just in the chair; the former chairman of the Veterans' Committee, Senator SPECTER. It has the strong support of all of our leading veterans organizations, including the American Legion, the Veterans of Foreign Wars, the Iraq-Afghanistan Veterans. The Disabled American Veterans have taken a firm position, as have many more.

We have, I would say, at least 15 of the top veterans organizations having participated in the modification of this bill and strongly supporting it. Many major higher educational institutions and associations have endorsed this bill, including the American Council on Education, the National Association of Independent Colleges and Universities, and the National Association of State and Land Grant Colleges.

This bill is carefully crafted. It has been substantially improved by the participation of all of the groups that I just mentioned plus many of our Members. It is appropriate on this legislation as a cost of war.

There are people who discuss this in terms of cost. This is a bill that closely resembles the benefits that we gave to our returning veterans in World War II—a series of educational benefits which leveled the playing field in America and allowed those who served a first-class opportunity to move into the future. We owe these young men

and women who have been serving since 9/11 no less. We owe them no less. This is emphatically a cost of war.

When we can spend \$600 billion and, by some estimates, \$3 trillion in a life cycle as a result of this war, the least we can do is spend the money in this bill to allow these people the best opportunity they have to succeed in their lives.

There has been some resistance from some of the Members of this body—some of the Republican Members of this body—and also from the administration to this bill. Some have said it is too generous. I just discussed that. We worked very hard to make it fair and relevant to the priorities we should be having. Some have said it would be difficult to administer. We have worked with the Department of Veterans Affairs and with the Department of Defense on areas where they had concerns, and we addressed those concerns. It is interesting to point out, for those who talk about the potential difficulty of administering a bill such as this, that the U.S. Department of Veterans Affairs was able to administer a very similar bill after World War II in a day where we didn't have computers, and they were able to do it for 8 million people. We are not talking anywhere near that number, so I believe we have addressed all of those concerns.

The last issue that has been discussed, and it has come up again and again, is the concern that provisions such as are contained in this bill would affect retention in the Active-Duty military. As someone who has spent 5 years in the Pentagon, 1 as a marine and 4 as a defense executive working on manpower issues—and I am sure Senator WARNER who spent more time in the Pentagon than I have would share this commentary—I believe the provisions of this bill actually will dramatically increase recruitment and that the manpower model would benefit from it.

With respect to retention itself, the discussion has been made that a bill like this should have, as a part of it, a concept called transferability, which would allow Active-Duty military people to transfer this educational benefit to family members.

I want to make a clarification as to where the main target of this bill is, then I want to speak very briefly about transferability, and then I would like to recognize my colleague from Nebraska.

I believe there is a misperception in this country that because we have an all-volunteer system, we actually have an all-career military. We do not. A lot of people come to the military in the United States because they love their country, because they have a family tradition, because they want to soldier for a while and then move on to other things. Frankly, these are the people who have not been properly taken care of in the years since 9/11, and they are the principal target of our legislation.

The U.S. military has done a very good job taking care of its career force.

When you hear arguments about entitlement to transferability, again, they are talking about managing the career force. But these are the actual numbers that have been given to us by the manpower chiefs in the Department of Defense.

In the U.S. Army, by the time a cohort group has finished its first enlistment, 75.5 percent of them have left or will leave the U.S. Army at the end of a first enlistment. In the Marine Corps, 70 percent of the people who enlist will leave by the end of their first enlistment, either through attrition or deciding not to reenlist. For approximately 50 percent of the Air Force and the Navy it is the same.

If you look at the Active-Duty military on the enlisted side, an overwhelming majority of them leave the military by the end of their first enlistment. These are the people who have had readjustment difficulties that we have talked about. These are the people who deserve to have a first-class education in order to move them into the future.

This group over here, about a quarter of the Army, about 30 percent of the Marine Corps, and about half of the Air Force and the Navy, are the people who reenlist at least for one term. This is the group that has received so much of the argument of this administration on issues of retention. We need to take care of this group. We are prepared today to discuss a way to address this transferability issue with this smaller but very important group.

I point out with the issue of transferability that Senator WARNER had introduced a provision that was enacted into law about 6 years ago that allowed the Service Secretaries to provide transferability to military people at the discretion of the Service Secretaries as a retention device. This has been in the law for 6 years with respect to the Montgomery GI bill, the bill we are going to replace. It has almost never been used.

On the one hand, we hear all this talk from the Department of Defense about how important this is and how they hear about it every day when they go out to their meetings and their townhall meetings, but the Service Secretaries have almost never used this benefit that has already been on the books. So I am concerned about how widely this benefit would actually be used.

At the same time, I believe it is important, and our principal sponsors believe it is important, that we continue the existing law with some modification to give the U.S. Department of Defense the opportunity to test it again, to put it in this bill, continue it as law with some tweaks on it. As the Senator from Mississippi had said earlier, I hope with this gesture that we can get full support for this legislation and get it into law. The clock ticks for young people after they leave the military in terms of how they are going to readjust to the rest of their lives. The clock has

been ticking for a lot of people since 9/11, and it is our duty to do something about it this year.

With that, Mr. President, I yield to my colleague from Nebraska, my longtime friend, Vietnam combat veteran, and former official in the Department of Veterans Affairs.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I am grateful to my colleague, the junior Senator from Virginia, for his continued leadership and years of contributions to our country, especially on behalf of our veterans. I would like to make some remarks focused on the general scope of what this effort is about.

The Senator from Virginia has laid out very concisely, cogently, some of the realities of the force structure we have today and why it is important and in the opinion of almost 60 Senators and over 300 House Members that we take the so-called GI educational benefits this country committed to beginning in 1944 when President Truman signed the first bill and roll those forward into the 21st century, because what has happened is that we are now caught in a different kind of a world, different kinds of wars, different kinds of requirements. But what has not changed is the absolute necessity that we rely on quality individuals to man our force structure. In a world that is far more complicated, combustible, and dangerous than ever before, it has required new sets of skills, obviously technologies, to defend our country, our interests in the world. It is that reality that we must adjust to within the framework of all of our policies.

What we are doing here is not adding a new benefit, we are not adding a welfare program; what we are doing is we are bringing up to date the benefits earned by men and women who have committed a good part of their lives to our country. We had that debate a long time ago, whether America wants to do that. Now, unless there are some individuals in the Congress or in America who want to go back and reengage that issue, we can do that, but I do not think that is the case. I think we recognize those who serve. I think we also, in recognizing their service, understand they have earned certain benefits.

So we are rotating a GI educational benefit system forward into the 21st century, a system that has not been changed for 25 years. And as reflected in Senator WEBB's charts—these, by the way, I remind our colleagues, as was noted by the junior Senator from Virginia, these are not his numbers, these are numbers from the Defense Department. So if we are to take care of our people, because we rely on our people to take care of us, if we rely on that rifleman, that person at the bottom who has always been the one whom we have asked to fight the war—fight the war, die in the war, sacrifices by their families, those who do not

come back, many who come back are seriously scarred, wounded, will never recover. That is the reality of the world in which we are living. So we are talking about a relevant system, relevant to today's costs for an education.

I benefited from the GI bill when I came back from Vietnam, as did the junior Senator from Virginia, as did the senior Senator from Virginia when he came back from World War II, the Korean war, as did almost every veteran in this body who has fought in a war benefitted from this program. So it is important that we get something very clear; that is, this is not a new program.

Now, as the Senator from Virginia noted, this then fits into the larger framework of a cost of war. Unless we are going to just discard the people whom we count on, that rifleman at the bottom who does not have much say in all of this, by the way—he is told to take the hill; he takes the hill. He doesn't set policy. Our military doesn't set our war policy. They have input and influence into the strategy, into the tactics, but we, the elected officials of America, starting with the President, his team, and the Congress, we are the ones who set policy, we are the ones who engage our Nation in war.

By the way, just as an aside, I think we should go back to a day in this country when we wanted and did, in fact, commit our Nation to war, we should declare that in the Congress of the United States, we should declare war rather than these skirmishes that we kind of on the side fund and we on the side deal with. We on the side never really come clean with the reality.

Here is an opportunity for us to do what is right and what is wise—what is right and wise; that is, to bring this educational benefit program forward.

The Senator from Virginia noted something that is very important—the administration of this program. That is always important, who administers the program, how will it work, can it work?

We have worked very diligently—our staffs, with many Members involved—with the Veterans' Administration, the Department of Defense, to make this work. We have ample testimony, recent testimony before the Veterans' Committee in the Senate from senior Veterans Administration officials saying: This can work. We can now do this. We can implement this.

The cost. The cost is an interesting debate, in my opinion, because if, in fact, we are a nation that can afford the cost of war, we can afford \$12 billion a month waging the war in Iraq, we can afford all the requirements it takes for a nation to go to war, but somehow we are disconnected from the obligation and responsibility of taking care of those who fight the wars? We somehow can't find the money for that? We somehow want to look the other way? I don't think so. I don't think the American people—and they never have been—are in agreement with that.

As to the retention issue, the Senator from Virginia again addressed this. Even taking the Senator's arguments, as clearly as the Senator from Virginia did, and making those arguments—and I can make them again, and others will—I am not sure that is even necessary because this is not a retention bill. There is a consequence to this bill, of course. We should frame within the text and the context of this bill a dynamic of retention: How can we make it attractive for our young people to serve aside from the fact that they love their country, they want to be part of something larger than their own self-interest, they want to make a noble contribution to freedom, to the world, to peace, to their families, to their future? And you can't substitute that. That is bigger than any benefit. Of course it is.

But the reality is, just as Harry Truman and just as our leaders back during World War II understood, just as every leader has understood since then, as we have continued to commit to our veterans, those who fight the wars and their families, it is wise to reinvest in our society.

How do you reinvest in our society? Well, one way, certainly an important way, is education. It is assuring these men and women who give of themselves—in a very selfless way that very few people do, by the way, especially today, when you look at less than 1 percent of the society, the American society, our population, less than 1 percent is bearing all of the burden. They are carrying it all for the rest of us. What do I mean by that? Because they are the few who are serving in two wars, rotation after rotation in Afghanistan and Iraq and on duty all over the world and in this country. So when they are finished, just as the Senator from Virginia has noted, in the Army and Marine Corps, it is more than 50 percent, after the first enlistment, that leave. Would it not be smarter, would it not be wise to reinvest in these people, to help them get an education so they can continue to contribute to America and strengthen America in every way?

National security is not only about the military. In fact, I think we can make a pretty strong argument that the military is obviously an essential component, but just as important is the economic vitality, this culture, the society, the commitment, the education of a society. That all has an awful lot to do with the national security of a nation.

This makes sense. This bill makes sense. It makes sense on this supplemental. This isn't divorced from that. This isn't an add-on to that. This isn't something we just invented. This is part of a larger context of service and earned benefits for those who serve.

I am very pleased that we are finding more and more ways to enlist more individuals in this effort. I think with what the Senator from Virginia noted as to an add-on on transferability, it

makes it more attractive. The senior Senator from Virginia, I assume, is going to speak to that when he takes the floor in a moment. I think when we frame up all of this, as the Senator from Virginia noted, this is the product of a composite of contributions from many individuals, from almost every veterans group I am aware of, from people who care about their country, who care about the veterans who serve this country, and care about our future.

I appreciate the leadership of the junior Senator from Virginia.

I understand in our series of colloquies that the senior Senator from Virginia is prepared to make some comments.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Virginia.

Mr. WARNER. Mr. President, I thank my colleague, Senator HAGEL, and I thank my distinguished partner in the Senate, Mr. WEBB. We have known each other for a very long time, over 30 years. When I was in the Pentagon, we were associated together at that time. He had a long and distinguished career

in the U.S. Marine Corps and following that in the Department of Defense in two very senior—including Secretary of the Navy—positions of civilian leadership. He has shown that same leadership from the day he crossed the threshold of the Senate, that this is his No. 1 priority. And how pleased and, indeed, humbled I am to join him and my good friend, Senator HAGEL, in making this possible.

What we are trying to do, very simply, is to enable this generation of young men and women to have, as nearly as possible, the same benefits as former generations—most specifically, the generation from World War II and the Korean War generation of which I was a part.

Both of these gentlemen are highly decorated combat veterans. I have a less significant career in the service. But all three of us bring our own experience to bear on thinking this is essential for this generation who is going out and fighting as courageously as any servicemember in the history of this country and, in fact, perhaps with an added measure of courage because

they are fighting an enemy that is so difficult to define, an enemy that does not have any state-sponsored nation attached to it, which is the form of the terrorism today.

I wish to thank the distinguished chairman of the Appropriations Committee, who has graced us on this floor for the purpose of listening in on this debate, for guiding it through the current supplemental bill in the Senate, and including Senator WEBB's bill in it. Indeed, I saw Senator MURRAY here and Senator INOUE, who both helped us get that done.

Now, much has been said by my colleagues about how we are trying to bring up the level of funding for the GI bill from the current existing Montgomery GI bill.

Mr. President, I ask unanimous consent to have printed in the RECORD this document which traces the history of what is known as the Pell Grant Program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PELL GRANT FUNDING, FY2000–09

Fiscal year	Academic year	Maximum award	Recipients	Average award	Appropriation
2000	2001–01	\$3,300	3,899,433	\$2,040	\$7,639,717,000
2001	2001–01	3,750	4,812,000	2,411	8,756,000,000
2002	2002–03	4,000	4,778,507	2,434	11,314,000,000
2003	2003–04	4,050	5,138,638	2,469	11,364,647,000
2004	2004–05	4,050	5,308,433	2,473	12,006,738,000
2005	2005–06	4,050	5,164,000	2,455	12,364,997,000
2006	2006–07	4,050	5,159,139	2,480	* 17,345,230,000
2007	2007–08	4,310	5,427,611	2,650	13,660,711,000
2008 Discretionary		4,241			14,215,000,000
2008 Mandatory		490			2,030,000,000
2008 Total		4,731	5,577,937	2,945	16,245,000,000
2009 Request		4,310			13,851,059,000
2009 Mandatory		490			2,090,000,000
2009 Total Request	2009–2010	\$4,800	5,764,108	\$3,154	\$18,941,059,000

Source: Compiled by CRS from Department of Education tables, based on December 2007 assumptions.

Note: Appropriations may include funds to retire previous year shortfalls. This amount includes \$4.3 billion in mandatory funding to eliminate the program's accumulated funding shortfall.

Mr. WARNER. That is a very fine program enabling individuals who are qualified to go to colleges and universities all across America—all across America—to any college or university that accepts them, to obtain a grant from the United States of America to help him or her with their tuition and other expenses.

This is the interesting thing. The program was initiated in 2000, but I use as a benchmark the year 2001. There were 4.8 million individuals who accessed this program. The Congress appropriated \$8.7 billion to defer their expenses. Fast forwarding from 2001 until 2009, the total request is as follows: roughly, a 20-percent increase in the number of individuals going. It goes from 4.8 million to 5.7 million, a little under 1 million. Now here is the astonishing thing. The amount of money Congress appropriates for the 2009 class of 5.7 million is \$18.9 billion.

Mr. WEBB. Will the Senator yield?

Mr. WARNER. Yes.

Mr. WEBB. My understanding of the program is that would be \$18 billion.

Mr. WARNER. I thank the Senator for correcting me. In the year 2009, it is \$18.9 billion. That is over a 100-percent increase, keeping up with inflation, keeping up with added expenses. But

that is not the case with the existing GI bill. Although there has been a CPI adjustment, it doesn't compare to how Congress has treated the category, a well-deserving category, of the Pell grants. So this is essentially what we are trying to do.

My colleagues, the three of us, have worked together on the question of transferability. I wish to go back and acquaint the Senate with some history. I was chairman in 2001 of the Armed Services Committee, and I worked with a distinguished former colleague, Senator Max Cleland. He introduced, along with myself, on May 23, 2001, an amendment on the ability of a service person, after stipulating periods of time, to have some transferability to his family. The cosponsors, at that time, of the original amendment were Senators BINGAMAN, DAYTON, KENNEDY, LEVIN, and myself. I was the only Republican. There were several other Senators, four more. I was the only Republican who stepped up at that time. Later it became a bipartisan effort. In the evolution of events that year, we marked it up. But here is the interesting thing. On June 28, 2001, in the Senate Committee on Veterans' Affairs, at a full committee hearing, there was no mark-

up or no action taken on the bill. So then we decided, on the Armed Services Committee, we would act. In September of 2001, our bill was accepted by the full Senate and became law on December 28, 2001.

I pay my respect to those who formulated the concept of transferability originally in the Senate. It is the law today. I will send to the desk later today an amendment, which Senator WEBB, Senator HAGEL, and I worked on. We are joined by two other original cosponsors, Senator LEVIN, current chairman of the Armed Services Committee, and Senator AKAKA, current chairman of the Veterans' Affairs Committee. This amendment will be filed at the desk this afternoon. We are going to make a technical adjustment to it. The purpose of this amendment is to provide a 2-year pilot program of transferability. We track as closely as possible the original law I recited that was enacted on December 28, 2001. The details will be provided to the full Senate when we file the amendment.

Essentially, we are asking an individual to complete his or her first 4-year term of enlistment and then, if they enlist for another 6 years, there is a vesting over a period of time of the

full transferability of their benefits, as a sequence of time, to their family.

In the letter from the Secretary of Defense to the Senate, which talked about the need for transferability—and I am not sure at that time whether he was referring to the existing law or a new law—he said: “Transferability supports military families, thereby enhancing retention.”

There it is. We are meeting the Secretary of Defense’s letter to the Senate expressing the need for this transferability.

In my career, winding up 30 years in the Senate, I can’t think of a piece of legislation in which I have had a greater emotional involvement. I am so pleased to share it with my good friend, the junior Senator from Virginia, and my friend from Nebraska. As I said when we first began to debate this bill, with a deep sense of humility, it is highly unlikely I would have ever achieved the opportunity to come to the Senate had it not been for the GI bill given to me by the United States in return for modest service in the last year of World War II and then a second period of active duty service during the Korean War, this time in the Marine Corps. I feel it so strongly in my heart. I don’t know of any time I have felt more strongly the need to do something than this today.

Through the years, I have been to Iraq many times, Afghanistan. Throughout the intervening period, I visited military bases and spent as much time as I could with the men and women of the Armed Forces today. Each of us does the same thing, works with our military. On Monday, I was privileged to go into the State that Senator WEBB and I are privileged to represent. We worked together to get funding in years past—and he is supporting it today—to build a new armory for the National Guard in Virginia, a famous regiment that fought in World War I and World War II. Members of that regiment were the first to go in on D-Day. They fought subsequently. I felt at that time that we are doing the right thing with this bill, taking care of those future guardsmen and reservists and active-duty individuals. This is the right thing for the Senate to do.

I understand there are honest differences of viewpoints and approaches. That is true with all legislation. Other colleagues have put in a different bill. It had a section on transferability. In some ways, it tracked what is existing law but not in the way we are doing this. This amendment, this bill, if amended, will bring forward existing law, incorporate it into the underlying amendment sponsored by Senator WEBB and ourselves, and that will become, hopefully, at some point in time the new law that will govern future benefits of our GIs and sailors, airmen and marines. We file it today because I do not know exactly how this supplemental will go through. I don’t know if there will be a window of opportunity

put on it. If there is, we will exercise that opportunity. But if it is not, we are going to, as a team, bring it to the attention of the Armed Services Committee in the context of the annual authorization bill, which I presume will be done just before the Fourth of July recess.

We will affix to it that bill so it will eventually be amending the underlying bill, which I hope becomes law very soon as a component of the supplemental process now being undertaken by the Senate and the House.

Again, I salute my colleague from Virginia and my colleague from Nebraska. We have been here together. We have shared many opportunities to do something such as this together but none as important as this one.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank Senator WEBB, Senator WARNER, and Senator HAGEL for their leadership on this extremely critical issue of providing education benefits to our veterans. I am a cosponsor of their legislation and was happy to include it in the emergency supplemental legislation, approved by the committee last week and now pending before the Senate.

On another subject, for purposes of compliance with Senate rule XLIV, I certify that the information required by Senate rule XLIV related to congressionally directed spending has been identified in the committee explanatory statement filed on May 19, 2008, and that the required information has been available on a publicly accessible congressional Web site in a searchable format at least 48 hours before a vote on the pending bill.

Mr. WARNER. Mr. President, I thank my longtime friend and Member of this institution, Senator BYRD, for endorsing this bill and becoming a cosponsor. I also thank the Senator from Washington, Mrs. MURRAY, who worked on this legislation and seeing that it was put into the supplemental.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR TED KENNEDY

Mr. DOMENICI. Mr. President, I do not wish to use much of the Senate’s time—just a few moments—but I came to the floor to say some words to my good friend, Senator KENNEDY, and his family.

We heard the early news, and then we heard the late news, in which you have been described as being a little bit more ill than we thought. I wish to say to you and your family, as a fellow

Senator from the other side of the aisle: I wish for you the best and hope the Good Lord intends for you to get well so you can come back and accomplish some more things and so you and I can have some more arguments and so you and I can have red faces when you argue and I argue and my wife calls up and says: You both are arguing so much that your faces are so red nobody will listen to you.

That happened once, and I did communicate to Senator KENNEDY that my wife had told me I was getting too red in the face because I was yelling. I asked her: What about Senator KENNEDY? And she said: Well, that is not your business, but he is yelling too much too. So I told him that, and he had a big laugh.

I wish to say to him that this great big bill we are working on—parity for the mentally ill by the insurance companies of America; about a 6-year project of his and mine—the House sent us back the bill today, Senator KENNEDY, believe it or not. After all these days we have been wishing we could get something, they sent us that bill today. They did not send us exactly our bill, so who knows how much longer we will have to work at it. But this one, big bipartisan bill you started helping me with when I was in the majority, we have not got it there yet, but we will. It has been a pleasure working with you on that and many other things.

But most of all, I came to the floor knowing it is not easy to get a hold of you, and I do not intend to try to bother anybody, but at least in the Senate, we are free to speak, so I am speaking how I feel: that I hope you get well, and I hope the Dear Lord blesses you and your wonderful wife, whom I have known, not as well as I know you, but what a nice lady she is. On behalf of Nancy and myself, we say to her, we hope everything goes the very best it can. You are in the best of care—and that is what you should have—and we hope you get well.

Thank you. I thank the Senate for the few moments yielded to me.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mrs. MCCASKILL). Without objection, it is so ordered.

Mr. DORGAN. Madam President, midday today during our Democratic Caucus, when we learned our colleague Senator KENNEDY is now facing some very serious health problems, it is an understatement to say we were all shocked by that news and saddened by it.

Senator KENNEDY has for decades been a major presence in this Senate Chamber. He is a friend, a colleague, and all of us have said prayers today for his recovery.

Senator KENNEDY has faced much adversity in his life, but he has also contributed so much to this country. I know he will meet this challenge with the same strength and the same grace he has met other challenges. It is my purpose today to say it is my prayerful hope, and I know the prayerful hope of all Members of this Chamber, that in the row behind me and four desks to my left we will once again at some point in the future see Senator KENNEDY among us to continue his service to his country.

My thoughts and prayers are with our colleague for a full recovery.

Madam President, I wish to visit for a few moments on the piece of legislation in front of us which includes the GI bill. We have had a GI bill in this country for many decades. There is a new GI bill in the underlying legislation that is brought to the floor of the Senate. I am so proud to be a cosponsor of it and to be a part of what so many in this Chamber have put together. The GI bill is such an important part of what this country does and says to those who serve this country.

This weekend I traveled, and at an airport in Minneapolis there was a family—a man, a woman, and three children; three very young children—getting on the same plane I was boarding. They were from North Dakota but they lived on a military base in Georgia. The wife came up to me and said hello. She said: My husband has done three deployments in Iraq. I hope—I so hope—that you can find a way to end this war.

This is a woman who has watched her husband leave for Iraq three times; a woman who is taking care of her three young children while her husband is deployed three times to the country of Iraq. I visited with her husband and her children, and I know that family is proud to serve their country. I know the entire family is proud of that soldier's service. But I also know the costs of that service, because you could see it in the eyes of that soldier's spouse.

Also on Saturday morning I went to an event in one of our cities. It was a homecoming event for 35 soldiers who had just come back from deployment in Afghanistan. These were National Guard soldiers. They too were so proud to have served their country, and some of them had been deployed twice; two deployments to Iraq or Afghanistan. One or two had been on their third deployment. Their families were there and all of them were enormously relieved and pleased to have their loved ones home.

I was thinking about those events: meeting a family at an airport, a soldier who is stationed in Georgia but who is a North Dakota native, and visiting with the family members at the National Guard event and saying thank you to them from a grateful nation.

I was thinking about a day much earlier when I was asked to present medals earned by an American Indian who

served in the Second World War but had never received his medals. His name was Edmund Young Eagle. He was a Standing Rock Sioux Indian. He was someone who enlisted in the Army in the Second World War and went to war. He served in northern Africa, Normandy, and across Europe. He served with great distinction as an American soldier in some very difficult fighting.

He then came back to the Indian reservation and lived kind of a tough life. He never had very much. He never married. He never had very much in his life, but he lived a good life nonetheless. At the end of his life, he was in the veterans home and then got sick and was put in the veterans hospital in Fargo, ND. His sister contacted my office and asked if her brother could receive the medals he had earned during the Second World War but had never received. We said of course. On a Sunday morning in Fargo, ND, I went to the veterans hospital with the medals for Edmund Young Eagle. The doctors and the nurses and others from the hospital crowded into his hospital room that Sunday morning. Edmund was sick with lung cancer. I didn't know it at the time, but he didn't have many days left. He died about a week later of lung cancer. But on that morning he was fully aware of what was happening, and I was there granting the wish of his sister to get the medals from the Department of Defense that Edmund Young Eagle had earned in the Second World War. We cranked his hospital bed up to a seated position and then I pinned a row of medals on Edmund Young Eagle's pajama top there at the veterans hospital and told him: Thank you from a grateful nation for serving this country in the Second World War. This very sick man looked up at me and said: This is one of the proudest days of my life. He died about a week later. But he served his country and was enormously proud of it.

There are so many circumstances around this country where one by one or in groups we honor our soldiers because they put on America's uniform. This morning, soldiers halfway around the world not only put on a uniform, but put on body armor and went out in harm's way, some to be shot at. They didn't ask why; they just did what their country asked them to do.

Now the question is: When it is all over, when they come home and their service is done, what will their country say then? What will their country say to them, other than thank you?

What we said in the Second World War with a GI bill was when those soldiers came home, we offered them an opportunity to go to college, to help them to be able to purchase a home. So a substantial number of returning soldiers went to college and got a college degree. They went back home and married their sweetheart. They built a home. They built a community. They built their churches. They expanded the middle class. They created an economic boom in this country. Later, it

was estimated that for every dollar we spent on the GI bill, \$7 was returned because it was an unbelievably good investment for our country.

Senator WEBB, Senator WARNER, Senator HAGEL, Senator MURRAY, and so many others—myself included—as cosponsors of this bill have said it is time again to write a GI bill that is appropriate for wartime and for returning veterans. When soldiers return and become veterans, the question is: What will the GI bill offer for them? How will we invest in their lives, and thereby invest in this country?

The previous GI bill was the Montgomery bill written during peacetime. Frankly, it does not do what we have historically been able to do and willing to do for those who serve our country, in addition to saying thank you. The Montgomery bill existed—and we are pleased it did—but this new GI bill is something very different. It tries to say to soldiers, as we did some 60 years ago, not only thank you, but we want to invest in your lives and invest thereby in this country. It is a new GI bill. It allows an opportunity to go to college and to be able to pay the in-State cost of college with a stipend for living during that period of time that you get your college degree. It invests in the lives of those who have invested their lives in this country. This is a very important piece of legislation.

I am told there are some who now come to the floor of the Senate, nearing three-quarters of a trillion dollars having been spent on emergency supplemental appropriations bills requested by President Bush to prosecute the war in Iraq and in Afghanistan, and say: Well, we can afford that and we have to do that on an emergency basis, but we don't have the money to try to help veterans when they come home. A veterans program is the cost of war.

It is the cost of war. How does anyone say that somehow the three-quarters of a trillion dollars for so many hundreds and thousands of different accounts and contractors and replenishment of various accounts is more important than the single account of the GI bill, which says we want to invest in our soldiers? How does anybody say those myriad other accounts are more important than investing in our soldiers when they become veterans? I don't understand that. It makes no sense.

It is a significant claim and priority for this country to understand that part of the cost of war is to provide health care that is promised to veterans and a GI bill this country can be proud of, which invests in those veterans and our country. That is what this bill is about. This new GI bill is every bit as important—perhaps more important—than any other provision that exists in this large emergency supplemental requested by this President.

The Congress undoubtedly, at some point, in some way, will enact this legislation providing for some supplemental appropriations. When it does, in

my judgment, it must do more than just say thank you to veterans, as we do, but it must invest in veterans, which this new GI bill will do. This makes a lot of sense for our country.

I commend especially those I have mentioned previously, including Senators WEBB, WARNER, HAGEL, MURRAY, and so many others. I am proud to be one among them to say that this too is a priority for this country. I hope when the sun sets at the end of this week, if we have passed this legislation called the emergency supplemental appropriations bill, it will include something that ought to give all of us a reason to be proud and that it will include a new GI bill to say to veterans in this country: You matter. It matters to us what you did for our country. I hope we manifest that by passing a new GI bill in the name of their service.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ENERGY

Mr. DORGAN. Madam President, I know we are on the emergency supplemental bill. However, I want to talk a bit about the energy issue, so I will begin on that. I want to make a couple of points.

First, we sent a bill that the President signed, I believe, this morning, which I offered here along with my colleague Senator REID in the Senate last week. We passed it on Thursday. It said stop putting oil underground when oil prices are bouncing around at \$128 a barrel or so. We told the Department of Energy stop putting 70,000 barrels a day underground. We have a Strategic Petroleum Reserve—which makes sense to me because if you run into trouble, you will have oil you have put away. But we have put that oil away, and it is now 97 percent full. Yet the DOE and the Bush administration are topping it off by putting 70,000 barrels a day every day underground.

Our legislation says stop that. When oil is going through the roof and the price of gasoline is so high, stop putting it underground. It makes no sense. You are putting upward pressure on prices, which is the last thing we should do.

I am pleased the President signed the bill today. Some have said it won't make any difference, that there are factors other than the 70,000 barrels going underground that are at play here, and I will talk about them. But it certainly doesn't hurt to put additional oil, and therefore gasoline, into the supply pipeline. That ought to bring prices down. It is common sense.

I used to teach a little economics and the supply/demand curve hasn't changed. If demand remains unchanged

and supply is increased, prices are going to be lower. So I never understood why they decided when the Strategic Petroleum Reserve is 97 percent full, why they are taking sweet light crude from the Gulf of Mexico and sticking it underground for a rainy day. It is raining at the gas pumps these days. Stop that and put it into the supply chain and put downward pressure on oil and gas prices.

I am pleased that we finally did it last week. The House passed the bill. We got it to the President and he signed it. That is one step in the right direction. A big step, giant step? Probably not, but it is a step in the right direction in dealing with the question of the price of gasoline.

Now, there is something curious going on in this country. It is not explainable, frankly. This chart says oil prices nearly doubled in 1 year—up, up, up, and up. They doubled in 1 year. What would cause that? Well, here is speculators' activity in the oil futures market. It looks like oil prices, doesn't it? It also goes up, up, and up. There is more and more speculation in the oil futures market. These are not people who want to buy oil—oh, no. They want to buy a contract. They don't ever want to take delivery or get their hands dirty with oil; they want to speculate and gamble in the oil futures market. They want to buy what they will never get from people who never had it, and walk away grinning and deposit their money in the bank—big profits, by the way. It doesn't matter what the consequences are. The wreckage can lie in the gas pump lines, on the family farms, and elsewhere, because they push up prices with this speculation. As you can see on the chart, the speculation looks exactly like the runup in the prices.

The senior vice president of ExxonMobil Oil, on April 1, last month, said:

The price of oil should be about \$50 or \$55 per barrel.

But it is not. It is \$128 a barrel, \$129 a barrel today, and is headed north. So an oil company senior vice president said it ought to be \$50 or \$55 a barrel.

Clarence Cazalot, CEO, Marathon Oil, said:

\$100 oil isn't justified by the physical demand in the market.

He is president of an oil company. In January, the Newark Star Ledger said:

Experts, including the former head of ExxonMobil, say financial speculation in the energy markets has grown so much over the last 30 years that it now adds 20 to 30 percent, or more, to the price of a barrel of oil.

Fadel Gheit, 30 years with Oppenheimer Company, senior energy trader, said this:

There is absolutely no shortage of oil. I am absolutely convinced that oil prices shouldn't be a dime above \$55 a barrel. I call it the world's largest gambling hall. It's open 24/7. Unfortunately, it is totally unregulated. This is like a highway with no cops and no speed limits, and everybody is going 120 miles an hour.

Andrew Hall—I don't know him. I have said I would not know him from a cord of wood. All I know is that the Wall Street Journal reports this trader hit the jackpot on oil as the commodity boom roars on. When they say commodity boom, they are not talking about oil wells, or drilling rigs, or oil tanks; they are talking about the commodities market. Again, it is a market in which speculators abound—an orgy of speculation, with people buying things they will never get from people who never had it, nobody wanting the oil, but wanting to speculate in this class called speculators. Mr. Hall earned a quarter of a billion dollars—\$250 million—in 5 years. That is a pretty big payout, actually.

All of these folks who are neck deep in futures markets include hedge funds, investment banks, unbelievable speculation in the futures market, which is driving up the price of gasoline and the price of oil.

Now, it is interesting to me, and I think important for us to understand, that as the price is going up, and it is going up again today, that more pressure will push prices higher. In this country, people will drive to the pumps tonight and try to figure out, how do I pay for this tank of gas? I need it and I have to drive to work. Or as the farmer tries to figure out, how do I fill that farm gas tank and pay for that? Or a small family trucking company tries to figure out how do I make ends meet, or will I have to close the doors, perhaps, like one of the CEOs of the five airlines that have filed bankruptcy at this point because of fuel prices?

As all of this is happening, let me make a couple of points. One, we have more oil in our inventory and more fuel in our inventory right now than we did in January of this year. We are somewhere over 30 million to 40 million barrels of oil in inventory above where we were in January. So go figure. Inventory is up. Shouldn't prices come down a bit? You would think so. Not only is inventory up but demand is also down because our economy slowed down some, and because the price of gasoline and fuel is very high, people are driving a bit less. Some estimate that demand has dipped around 4 or 5 percent. So our inventories are up, demand is down, and what is happening to oil prices? They are continuing to go up.

Refiners are actually refining less at the moment, by their own design, because they believe there is an excess of inventory, so they want to catch up a bit, or allow the inventory to catch up with demand. So they are refining less than they previously refined. You would think, then, if supply is up, with millions more barrels of oil in inventory, the supply of gasoline having increased sufficiently so that refiners are cutting back refining capability, that the price of gasoline and oil would begin to come down. But it is not true. What is happening today is it is reaching record highs. So what does that tell

us? It tells us there is this unbelievable amount of speculation in which speculators have taken over the commodity markets and driven oil prices to levels that are doing great damage to this economy, great damage to this country, great damage to America's families, and great damage to businesses in this country. They don't care much about that. All they care about is going to the bank with a pile of money. All they care about is making all this money.

I am telling you, at the top, take a look at the compensation of the top hedge fund managers in this country. It is unbelievable. It almost makes you ill. They are all making a lot of money, and they are doing it by speculating in a market that is driving up prices beyond where the fundamentals of oil and gas supply and demand would justify. There is no justification for this at all.

American families have a right to ask the question of this Congress: What on Earth are you going to do about it? Does anybody care? Or are the consumers just pawns in this big game while the speculators run off with all the money?

It seems to me, when markets don't work we have a responsibility to do something about it. If you have a computer handy, you can find a search engine and find excesses of speculation. In fact, over the last decade and a half, we have seen two bubbles already, and now a third. We saw the tech bubble, and it burst. We saw the housing bubble, and it burst. Now we see a bubble on the commodities exchanges, and it will burst at some point. The question is when and what damage will be done between now and then.

These exchanges are supposed to be regulating certain kinds of activities. I have a little experience in this—not a lot, but a little. I chaired the hearings in the Senate on Enron. We did it in a Commerce subcommittee. I had Ken Lay come in front of me in my committee. He raised his hand and swore an oath to tell the truth, sat down, and took the fifth amendment. We had Jeffrey Skilling come. He is now in prison. He wouldn't stop talking, by the way. Through it all, the suggestion was, there is nothing going on here.

There was this unbelievable runup of wholesale electricity prices on the west coast during that period. We now know it was criminal activity, a criminal enterprise. We now know they were fixing things. They were shutting down plants. They were manipulating supply. They were speculating.

I am not suggesting speculation is necessarily, or even in most cases, criminal behavior. It is not. But the combination, going back to Enron, of not being able to see the dark money, the money that moves in the shadows behind the regulatory opportunities that some agencies have, means consumers can be manipulated and injured dramatically.

There is a lesson, it seems to me, as we take a look at what is happening in

energy. I remember when President Bush came to town. He appointed a new Chairman of the Securities and Exchange Commission. I believe his name was Harvey Pitt. He said when he took office there is going to be a new attitude around here. This was the Securities and Exchange Commission, a regulatory body.

He said: There is going to be a new attitude around here, a business-friendly attitude. And sure enough, it sure was business friendly, and not just there but virtually every agency. We don't want to regulate. Yes, we are a regulatory body, but we don't want to regulate. Yes, regulators are supposed to be the referees, wear the striped shirts, call the fouls; we don't want to do that. We don't even like Government very much. We just come here and say it is business friendly, so do what you want.

Over the past 7 years we have seen an unbelievable amount of avarice and greed and speculation. Is it any wonder that we saw the bubble burst with respect to housing? Who wasn't minding the store? We know what happened then.

We had ads on television from these mortgage companies. Anybody who watched one of them would have known this doesn't work.

The ads said: Hey, you have been bankrupt, you can't pay your bills? Are you missing your house payments? Come over here. We will give you a new mortgage. You don't have to worry about all that. You have bad credit? Come to us. We will give you credit. In fact, we will give you a mortgage where you don't even have to pay all the interest. In fact, we will give you a mortgage loan where you don't have to pay any interest the first year; we will pay the interest for you, and the principal. We will say to you: You don't even have to document your income to us. You have to pay a slightly higher interest rate, but you get a mortgage with us, and you don't even have to document your income. It is called a no doc loan.

So, no documents, no interest payment for the first year and no principal payment for a long while. And by the way, when we set your interest rate, you pay an incredibly low interest rate.

I saw an advertisement that said pay one-fourth of 1 percent interest rate—not telling them, of course, it is going to reset at 10 percent in 3 years. They don't have a ghost of a chance of making those payments, and they are going to lose their house. We are sorry. They never tell them that.

Where were the regulators? Were they watching? No, they weren't watching. They didn't care.

So you have this buildup of speculation, mortgages, housing, and now the entire economy pays a price for that.

On top of that, we have this unbelievable buildup of speculation in the commodities market and oil, which is an essential commodity for every part of

this economy, and the cost is going through the roof. Today it is setting a record.

Think of this economy and the national result. Does it matter that oil is different? Sure does. We suck 85 million barrels of oil out of this world every single day. We take 85 million barrels and suck it out of this planet. We need to use one-fourth of it in this country. We use 25 percent of all oil pulled out of this planet every day, and we only produce 10 percent. We use 25 percent of the world's oil, and we produce only 10 percent. That means we have to get a lot of it from elsewhere, and we do. Mr. President, 60 percent plus comes from offshore, much of it from troubled parts of the world.

We have a major issue with respect to oil. We have to deal with it. In the short term, though, we have to deal with this. John Maynard Keynes said in the long run, we are all dead. In the short run, we drive to the gas pumps and say: How can we possibly afford this? How can we pay this price? Then we understand this price isn't even justified. There is nothing in supply and demand that justifies this price. The supply is up, demand is down, and the price of oil is going through the roof. That is not about market system. Those are arteries clogged in the free market system, and this Congress has a responsibility to do something about it.

What do we do? There are a number of approaches a group of us are working on. It includes trying to find ways to make certain we know what is happening on all of these exchanges. The folks who run the exchanges in this country say: The problem is, if you increase the margin requirement, all this stuff is going to go to the Intercontinental Exchange, called ICE, over in London. You can't do that; it goes offshore and you never see it.

That is another part of the dark money strategy in this country where they all make money and injure this economy. We are looking for ways, and I believe we will find a way in a couple of days, to get our arms around this issue called regulatory need with respect to excess speculation on all markets. This is damaging this country's economy, and we cannot and should not stand for it. Speculators have had their day. They have made their money. They have injured this country. Now it is time for us to wring that speculation out of those commodity markets.

We need commodity exchanges. We need futures markets. We need them for liquidity. We need them for hedging. But when we have speculators grab these markets by the neck and pervert them, this Congress has a responsibility to act.

I conclude by saying the price of oil is setting new records today despite the fact that we in this country have an increased supply of oil since January, month after month after month, and demand is going down by the consumer because of price. So supply is up,

demand is down, and this perversion in the marketplace is producing the highest price for oil we have seen. That is an unbelievable perversion of what the free market ought to be.

We hear people say free market. There is no free market here. You have an OPEC cartel sitting behind closed doors. It would be illegal in this country. That does not contribute to a free market. That is a fixed market. And we have oil companies bigger and stronger. They almost all have two names now—ExxonMobile, ConocoPhillips—because they all merged and everybody thought that was fine, at least in this administration. So they are bigger and stronger and have more muscle in the marketplace. Then we have this perversion in the futures market.

That combination is a combination that I say damages this economy. We mean to address it. In the coming days, I intend to talk about legislation that will tie into this speculation, wring it out of the markets and say: You can't continue to damage the economy of this country; you can't continue to injure the consumers in this country because we are not going to stand for it.

Mr. AKAKA. Madam President, I am delighted to be an original cosponsor of the amendment offered by the distinguished senior Senator from Virginia which would clarify that the provisions in current law regarding the transferability of educational assistance benefits to family members would apply to the new GI bill for the 21st century.

This amendment would further give the Department of Defense the ability to conduct a 2-year test of somewhat expanded transferability options to individuals who have completed 4 years of active duty service, who agree to complete an additional 6r years of service, and who meet such additional criteria as the Secretary of Defense establishes.

I have consistently stated that I believe that transferability can be an important retention tool for the military and that the provisions of current law would apply to the provisions in S. 22 as revised. However, I have also noted that there is no data that demonstrate the retention value of the transferability option.

The Army implemented a pilot program in July 2006 which allows soldiers who reenlist in critical skills to transfer their Montgomery GI bill benefits to their spouses. Mr. President, I will ask unanimous consent that the Department of Defense annual report on entitlement transfers, dated March 20, 2008, be printed in the RECORD at the conclusion of my remarks so that Members can see that less than two percent of those who were offered the opportunity to transfer benefits took advantage of that option.

It is on this basis that I believe that this authority needs to be continued and expanded slightly in the context of this new GI bill for the 21st century. But to rely on transferability solely or in lieu of the legislation that has been

carefully developed by Senator WEBB and others would be a mistake.

I urge the Senate to approve the amendment offered by Senator WARNER.

I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE  
UNDER SECRETARY OF DEFENSE,  
Washington, DC, March 20, 2008.

HON. DANIEL K. AKAKA,  
Chairman, Committee on Veterans Affairs, U.S.  
Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter serves as the annual report on entitlement transfers of basic educational assistance to eligible dependents under the Montgomery GI Bill (MGIB) as required by Section 3020(1) of title 38, United States Code.

The Army implemented a pilot program in July 2006, allowing Soldiers, who reenlist in critical skills, the ability to transfer MGIB benefits to their spouse. The Army defined critical skills as any Soldier who qualified for a Selective Reenlistment Bonus (SRB) incentive and was entitled to a Zone B or Zone C bonus under current messages at the time of their reenlistment. This SRB is reduced by an amount equal to the actuarial per capita cost. These payments were then deposited into the DoD Education Benefit Fund for transfer to the Department of Veterans Affairs.

In Fiscal Year 2007, 296 Soldiers chose this option, or less than 2 percent of the over 17K Soldiers eligible upon reenlistment. Of the 296 Soldiers, the majority were mid-career Soldiers (SGT/SSG) assigned to U.S. Forces Command and U.S. Special Operations Command. Initial feedback from the field indicates that Soldiers want to be able to transfer benefits to all their dependents, including children. The Army extended the program to allow eligibility for both spouses and children in November 2007.

None of the other Services exercised their MGIB transferability authority and, instead, relied on traditional reenlistment/retention incentives. In spite of the fact that this program was not offered by those Services, each experienced a successful retention year in Fiscal Year 2007. However, all the Services are closely watching the results of the Army pilot and continue to retain the authority to include MGIB transferability in their retention programs should circumstances warrant.

The Department plans to include the expansion of MGIB transferability in its Fiscal Year 2009 legislative proposal. This expansion will support the President's State of the Union address, where he called for Congress to join him in "allowing our troops to transfer their unused education benefits to their spouses or children."

I trust that this report will prove useful in your consideration of Defense personnel programs. Similar letters have been sent to the Ranking Member of the Senate Committee on Veterans Affairs, the Chairman and Ranking Member of the House Committee on Armed Services, and the Chairmen and Ranking Members of the House Committee on Veterans Affairs.

Sincerely,

MICHAEL L. DOMINGUEZ,  
Principal Deputy.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

## MORNING BUSINESS

Mrs. MURRAY. Madam President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business and that Senators be allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized for 10 minutes.

## ENERGY PRICES

Mr. SANDERS. Madam President, I concur with a lot of what my colleague from North Dakota said, and I applaud his leadership on this whole issue of outrageously high energy prices.

A few weeks ago, I sent an e-mail out to constituents in the State of Vermont, and essentially I said: Please write back to me and tell me what these outrageously high gas prices and oil prices mean to you. How are they impacting your lives?

From our very small State of 630,000 people, we received, as of this date, some 900 responses. Nine hundred families wrote to me to tell me the impact these extraordinarily high gas and oil prices are having in Vermont.

As you know, Vermont is doubly hit by these high prices because we are a rural State and people have to travel long distances to get to work, to get to the doctor, to get to the grocery store, and with the weather sometimes at 30 below zero, people spend a lot of money heating their homes. Madam President, \$4-plus a gallon for home heating oil has a huge impact on their lives.

What I would like to do in the time I have is simply read some of the e-mails I have recently received from Vermont. Let me be very clear in saying that while the e-mails came from Vermont, these e-mails speak for millions of people throughout this country, perhaps especially in rural areas. It is just amazing that at a time when poverty is increasing and the middle class is collapsing these high gas and oil prices have just taken many people over the edge. We are hearing what their stories are about.

As I have said on many occasions, I think we in the Congress are far too separated and isolated from the reality of American life. We are surrounded by a ring of well-paid lobbyists representing large, powerful multinational corporations, and the voices of the people do not ring out as clearly as they should in the Senate. Today I want to allow some of those voices to be heard.

Let me start off with somebody from the southwestern part of the State of Vermont. This is what this person writes:

I retired to this community on a fixed income, and now the price of gas almost prohibits me from having any enjoyment. I have to factor in the price of gas for everything I do. Most of my medical appointments are at least 50 miles round-trip, and the cost of gas is absolutely prohibitive. I do not know how

working people who earn less than \$10 an hour are able to afford the gas. Something has to happen as this is a crisis not only in Vermont, but throughout the country.

Here you see a story of somebody being impacted because they have to go to a doctor a considerable distance away.

While we are on that subject, let me read an e-mail that came into Burlington, where our major medical center is. This story is interesting. Again, it tells you one of the side impacts of these outrageously high gas prices—what gas prices are doing. This is from Burlington, VT:

My story involves my capacity as an oncology social worker working with cancer patients in an outpatient clinic. I also run an emergency fund for the cancer support program, which provides funds for cancer patients in need during their cancer journey, including initial diagnosis, surgery, and treatment period in which they experience a significant decrease in income during a medical leave.

These are people dealing with cancer. They cannot go to work. Their incomes are declining. Then she writes:

I cannot describe how devastating it has been for these folks who need to travel great distances to get to and from their cancer treatment and followup care with the way gas prices have been. Many of these folks need to travel on a daily basis to radiation therapy for several weeks, while others come from surrounding counties every 1 to 2 weeks for chemotherapy. It has had a tremendous impact on our ability to provide the financial assistance through our emergency fund to all those in need. Someone with cancer who has to get treatment has no choice how many times they need to travel great distances. They have to have reliable transportation and thus need access to gas for their cars or other family members' cars to get to their treatment and followup care. This is becoming increasingly difficult as gas prices continue to rise and our emergency fund cannot meet all of the financial needs of these patients.

How many people think of that? We all get upset and angry when we pay \$3.79 or \$3.80 for a gallon of gas, but here is a story where this price of gas is impacting the ability in rural States for people to actually get the cancer treatment they need.

Here is another story that comes from northern Vermont:

My commute is 630 miles per week. On average, I drive nearly 900 miles per week. My wife also commutes 250 miles per week. Two years ago, we spent between \$500 to \$600 per month on gas. You don't need an MBA to figure out what we spend a month on gas now. Our mortgage payment is less than the cost of getting to work. How does this hurt all Americans? We spend less on local goods and services. We wait longer to fix problems with our cars. Is this doing further damage to our environment? I need new tires and am scouring the classifieds to find used tires. Is this putting my family at risk? I don't know where this is going to end. How can ExxonMobil possibly make \$40 billion in profits alone? I just hope that supposedly smart people in Washington [i.e., us] will use all the tools in their tool boxes to stop this insanity.

Here is another letter. It comes from northern Vermont again:

This is my opinion. Here in Vermont you know we face challenges to heat our homes

and commute to our workplaces. I live in the town of Morrisville, and I travel 78 miles to work round trip each day. My car gets 30 miles per gallon, therefore I spend roughly \$10 a day just to commute to and from work. With that in mind, it costs me \$2,600 per year to just get a paycheck. My wages have nowhere kept up with the rising cost of gasoline, much less adjust for the rise in heating fuel, food prices, increases in incidental necessities such as tires, oil changes, et cetera.

Once again, it is the working person and the burden that high gas prices are having on the ability of that person to get to work.

Here is another story. This is also from northern Vermont:

I am a working mother of two young children. I currently pay, on average, about \$80 a week for gas so that I can go to work. I see the effects of the gas increases at the grocery stores and at the department stores. On average, I spend around \$250 per week at the grocery store, and trust me when I say I don't buy prime rib. I buy just enough to get us through the week, and I can't afford to make sure we have seven wholesome meals to eat every night of the week. Some nights we eat cereal and toast for dinner because that's all I have. My family has had to cancel our annual trip to the zoo, and we make less trips to see our families in another town due to the increase of the price of gas. The price of gas has created a hardship for most average Americans. We have less money to pay the living expenses which have also increased.

It seems as if it is just a rippling effect. I am really scared for what the future holds for me and my kids because I just simply cannot afford to live from day to day and I am getting further and further in credit card debt just trying to stay afloat.

Another letter:

I am a single mother of two daughters. The gas prices are affecting my life tremendously. I have a full-time job in Burlington but live in Richmond and it is getting so that I cannot afford my bills such as electricity and phone so that I can afford to drive to work every day. I live off from what I make at work and I get some food stamps to help out. Welfare does not consider gas as an expense, even though you need it to get to work. Right now I am 2 weeks behind in my rent and pinching my pennies as far as they will go just to live a low-class lifestyle.

Another story:

Personally, my 90-year-old father in Connecticut has recently become ill and asked me to visit him. I want to drop everything I am doing and go visit him. However, I am finding it hard to save enough money to add to the extra gas I'll need to get there.

Here is someone whose 90-year-old father is ill and doesn't know how he is going to be able to afford to fill up the gas tank to get there.

I am self-employed with my own commercial cleaning service and money is tight, not only with gas prices but everything. I make more than I did a year ago, and I don't have enough to pay my property taxes this quarter for the first time in many years. They are due tomorrow.

Madam President, on and on it goes. As I said, we have had about 900 of these e-mails from the State of Vermont. We also get e-mails from around the country. If anybody is interested in reading these e-mails, they can do it at my Web site: sanders.senate.gov.

That is the reality. We have the middle class which for many years has been shrinking. Since Bush has been President, 5 million more Americans have slipped into poverty; 8 million Americans have lost their health insurance; 3 million Americans have lost their pensions. That is what is going on for ordinary people.

But—and we don't discuss this too often—the people on top have never had it so good. In fact, the top 1 percent is doing better than at any time since the 1920s. Senator DORGAN a moment ago proposed some ideas with which I concur, in terms of how we have to address this oil and gas crisis. I think we made some progress several weeks ago by passing legislation which would stop the bringing more oil into the Strategic Petroleum Reserve. That is a small step forward but an important step forward.

Right now I know we have dealt with, and the House is dealing with, the issue of OPEC, how to deal with a cartel whose function in life is to limit production and artificially raise prices. Clearly, long-term, starting yesterday, we have to move this country away from fossil fuel and our dependence on foreign oil; move us to energy efficiency and sustainable energy. There is unbelievable and huge potential to do that. We have made some small starts, but we have a long way to go in energy efficiency and in adequately funding solar energy, wind energy, geothermal energy, biomass, and other forms of sustainable energy. The potential there is enormous if we are able to summon the courage to take on the very powerful lobbyists from the fossil fuel and automobile industries and move this country in the direction it should be going.

Right now, while we move forward to break our dependency on fossil fuel and foreign oil, we cannot forget these folks from Vermont and around this country who, today, are in desperation as a result of gasoline prices at \$3.80 a gallon, prices which will only go higher. There are several other things that, in my view, we need to do.

For a start, while Americans are paying outrageously high prices at the gas pump, the oil industry, as most Americans understand, is enjoying record-breaking profits. The American people simply find it very hard to understand how it could be that they can no longer afford to fill their gas tanks, while ExxonMobil has made more profits than any corporation in the history of the world for the past 2 consecutive years. There is no end to the greed.

Last year alone, ExxonMobil made \$40 billion in profits and rewarded its CEO with \$21 million in total compensation. A few years ago, ExxonMobil gave its former CEO a \$400 million retirement package.

All over America, people cannot afford to heat their homes, working people cannot fill their gas tanks, but ExxonMobil had enough money a few years ago to provide its former CEO a

\$400 million retirement package and provide the current CEO with \$21 million in total compensation.

But ExxonMobil is not alone. Chevron, ConocoPhillips, Shell, and BP have been also making out like bandits, seeing huge increases in their profits. In fact, the five largest oil companies in this country have made over \$600 billion in profits since George W. Bush has been in office. Last year alone, the major oil companies in the United States made over \$155 billion in profits. Believe it or not, these profits continue to soar. There is apparently no end to the profitability of these companies. Recently, ExxonMobil reported a 17-percent increase in profits. Earlier, BP announced a 63-percent increase in profits. On and on and on it goes, the middle class getting decimated—can't afford to heat their homes, can't put gas in their tanks—and oil companies making outrageous profits.

In 2006, Occidental Petroleum—not even one of the very major ones—gave its CEO a \$400 million compensation package for 1 year's work. They are simply sticking out their tongues, they are spitting on the American people, they are saying: We will do anything we want; \$400 million to the CEO in 1 year, and we don't care if you can fill your gas tank, we don't care if kids in Vermont are getting sick because their parents can't afford to adequately heat their home. That is the way it goes. We have contributed hundreds of millions of dollars to Congress. We have lobbyists all over the place. You can't do anything about it. That is what they are telling the American people.

I hope that is a wrong assertion. I hope, in fact, that Congress does have the courage to stand up to these oil companies and impose a windfall profits tax. It will not be easy, but that is the fight we have to make.

Furthermore, in addition to dealing with the greed of the oil companies, we must deal with the greed of speculation. The problem with dealing with speculation is that by definition, at least as is currently the case, everything takes place below the radar screen. They are not acting transparently, which is at the heart of what the problem is.

What we do know is, the hedge funds have made huge amounts of money. The top 50 hedge fund managers earned \$29 billion in income last year; 50 managers, \$29 billion. That is not too bad.

We also know there are a lot of financial institutions investing heavily in oil futures and are driving up the price of oil in the process. Clearly, while it is a complicated issue—it is not an easy issue, and we made some progress in the ag bill by doing away with the Enron loophole exemption. Clearly, a lot more thought and work has to go into that. But there are some experts who are arguing that literally 50 percent of the \$125-per-barrel cost of oil is a result of speculation and not actually the production of oil.

The issue is not just addressing the crisis in high oil and gas prices. The issue is whether the American people will have any degree of confidence in their elected officials and in the U.S. Government. It is no great secret that President Bush is perhaps the most unpopular President—for good reasons, I should add—of any President in the modern history of the United States. Congress is held in equal contempt. I think the time is now, in the midst of this very serious economic crisis our country faces—which includes the high price of oil, includes our disintegrating health care system, includes a trade policy which allows companies to throw American workers out on the street and move to China, and many other issues—if we are to regain the faith of the American people, we had better summon the courage to take on these oil companies, these speculators, these hedge fund operators.

Now is the time to do that. I certainly hope we will summon the courage to go forward.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MENENDEZ). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SALAZAR. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TED KENNEDY

Mr. SALAZAR. Mr. President, I come to the floor this evening to send Senator TED KENNEDY and Vicki and all the family my very best wishes. I am confident that with the fighting spirit that embodies who TED KENNEDY is, we will soon see him back here in this Chamber of the Senate. Over the years, as I have worked closely with Senator KENNEDY on a number of different measures, I have seen his passion and ethic of service here on the floor. Over the many years I knew about TED KENNEDY, long before he ever knew who I was, he was one of those people who always inspired me to public service. I remember well his speeches from the 1960s and into the 1970s. For me as a relative newcomer to the Senate, it has been one of those very unique privileges to serve with him on a number of different matters.

Part of the reason I know he will be back here working with all of us is because we have often talked about some of the difficult challenges he has faced in life. We have talked about the plane crash and how it was that he was pulled from the wreckage. While many did not expect him to survive, he did, and he has gone on to provide another 40 years of service to this great Nation

and this world. It is that fighting spirit that, again, will take Senator KENNEDY in a very positive way forward to continue to serve this Nation, the State of Massachusetts, and the entire world. That ethic of service in many ways is what guides most of us who are here, but certainly it is the roots of Senator TED KENNEDY.

We have often talked about his relationship with the United Farm Workers of America. In the prayer which the founder of the United Farm Workers of America, Cesar Chavez, wrote, I find a lot of that prayer reflected in Senator KENNEDY. I thought I would essentially read a part of that prayer. I think it is so true of Senator KENNEDY, the Presiding Officer, the distinguished Senator from New Jersey, and so many others who get so much inspiration from this wonderful man, TED KENNEDY.

The prayer is as follows, in part:

Grant me courage to serve others;  
For in service there is true life.  
Give me honesty and patience;  
So that the Spirit will be alive among us.  
Let the Spirit flourish and grow;  
So that we will never tire of the struggle.  
Let us remember those who have died for justice;  
For they have given us life.  
Help us love even those who hate us;  
So we can change the world.

That was written by Cesar Chavez, born in 1927, passed away in 1993.

For TED KENNEDY, the closing part of that prayer, "so we can change the world," I will say this to Senator KENNEDY tonight from the floor of the Senate: We still have a lot of change to make in the world together. I look very much forward to the day when we see you back here among all of our colleagues, helping us move forward in a new direction to achieve that visionary change that had at its focal point the possibilities of humanity.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate is in morning business, with 10-minute intervals.

#### GI BILL OF RIGHTS

Mr. SALAZAR. Mr. President, earlier today, on the floor of the Senate, we heard distinguished colleagues from both sides of the aisle supporting an effort that we pass a new GI bill of rights for the 21st century.

We heard the distinguished junior Senator from Virginia, JIM WEBB, who with his own hand, took it upon himself to author a piece of legislation that would make sure we as a nation

kept our promises to those who have served since 9/11 by providing them the kind of educational opportunity that was provided to those who served in World War II.

In that effort, as I presided over this Senate floor, I heard the very eloquent comments of Senator CHUCK HAGEL, himself a great servant of this country and a great Senator, in support of the legislation by Senator WEBB. During the same time, we heard the comments from Senator WARNER, one of the most eloquent and distinguished Members to ever serve in the Senate.

So I come to the floor today to once again say all of the sponsors of that legislation send a loud and unmistakable signal to everyone who has a say in this emergency supplemental that at the end of the day we must make sure this 21st century GI bill of rights is one that is included in this emergency supplemental that deals with Iraq and Afghanistan so that we, in fact, can honor our veterans who have served since 9/11.

We can do no less as a nation. We can do no less when we think about the great sacrifice of the now 1.6 million men and women who served in Operation Iraqi Freedom and Operation Enduring Freedom.

When we think about those who have served, we must first stop and pay tribute and honor to those who have given their lives as the ultimate sacrifice on behalf of their country, as well as those who have been wounded and hurt in those wars.

In Iraq, the current number I have as of today, 4,078 Americans have been killed in that war—a war that is now in its sixth year.

When the invasion occurred, there were predictions at the top of the Pentagon that this war would, at most, take 50 American lives. Somehow now we have surpassed the 4,000 number with 4,078 of our bravest men and women who have given their lives in Iraq.

It does not count the number of others who have been scarred either physically or mentally in that war as well. Those who have been wounded with physical scars, according to the current numbers we have from the Department of Defense, now exceeds 30,000 of our best.

For many of us in the Senate, as we have gone to Walter Reed or to other hospitals of the Department of Defense or veterans hospitals, we see the reality of what has happened to many of those who have come back without limbs and with other kinds of injuries that will stay with them the rest of their lives.

We do not have a firm count with respect to the other 1.6 million who have served there as to how many of them have suffered the mental scars of war. We know there are some estimates that it is as high as 20, 25 percent of them who will suffer from some form of post-traumatic stress syndrome.

So the number we are talking about who have borne the burden of this war

in Iraq, as well as the war in Afghanistan, is a number we should never forget. It is not just in Iraq but also in Afghanistan. We now have a casualty list which includes 497 Americans. We have about 2,000 who have been physically wounded and many more who suffer the mental scars of war.

When I think about what we are trying to do with this 21st century GI bill of rights for those who have served since 9/11, the thing I find most objectionable is that some of those on the other side and others who would oppose this legislation say it is too costly, that we ought not to undertake it because it is too costly.

In the context of what we have spent in Iraq and will be spending in Iraq, it is a very small amount of money to make sure we are taking care of our veterans once they return home. In Iraq, the total number, as of today, that has been spent on that war is \$525 billion—\$525 billion. Secretary Rumsfeld, at one point in time, said no way, no how will we ever spend \$50 billion on this war. Yet somehow, today, some 6 years later, it is \$525 billion plus that has been spent on the war.

When you consider the expenditures the United States is projected to make to bring this war to conclusion, some estimates out there are \$3 trillion—\$3 trillion—what we are trying to do with this 21st century GI bill of rights is simply to provide an opportunity for those who have served since 9/11 to get an opportunity for an education at a cost that would be \$2.5 billion to \$4 billion a year.

When we consider the fact we are burning \$12 billion a month in Iraq today, to provide this benefit to our veterans at a cost of \$2.5 billion to \$4 billion a year is a very worthy investment, and in the relative context of how much is being invested in that war effort, it is a very small amount.

I would hope at the end of the day it is not only 60 Senators who vote yes to include this 21st century GI bill of rights in this emergency supplemental, but that we could get a unanimous approval out of this Senate that this is the thing we should do because it is the right thing to make sure we are taking care of those who have served us since 9/11.

Again, I appreciate the great leadership of our good friend, JIM WEBB, who has worked so hard to bring together so many cosponsors of this legislation both here in the Senate, as well as the House of Representatives. I urge my colleagues to fully support this legislation as it moves forward.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE ECONOMY

Mr. BROWN. Mr. President, economic anxiety is pervasive among the middle class in my State of Ohio and throughout our great country, and there is good reason for that. The average duration of unemployment—17.5 weeks—is longer than at the start of the two previous recessions. In 2001, it took the average unemployed worker about 12.5 weeks to find work. In 1990, it took the average unemployed worker almost 12 weeks to find work. The average duration of unemployment now is about 17.5 weeks.

In fact, long-term unemployment is higher now than it has been at any other time since Congress first extended unemployment benefits, since 1980. The share of workers suffering long-term unemployment, meaning those who remain jobless after their first 6 months of benefits run out—so if their benefits run out after 6 months, that defines long-term unemployment by the Government—the share of those workers is nearly 17 percent higher than the 11 percent at the start of the 2001 recession and higher than the 9.8 percent at the start of the 1990 recession.

My State of Ohio has not added jobs since the end of the last recession, even while economists and an indecisive President wonder whether the country is entering another one, with all of their definitions and all of their pondering these questions and all of the indifference that comes out of 1600 Pennsylvania Avenue. What I do know is that there are 58,000 fewer jobs in Ohio than there were in November 2001.

In the past year around my State, I have attended almost 100 roundtables where I have convened meetings of 120, 125 people who sit around a table and talk to me about their hopes and dreams, what is happening in their communities, ways I can help, and all of the things that can help me do my job in the Senate. One of the topics that came up again and again during these meetings was the topic of economic insecurity. Wages are stagnant, jobs are scarce, and jobs are too often temporary. Sometimes, laid-off workers have seen their lives change. Instead of one good-paying job, they are holding two part-time or full-time jobs that pay significantly less than the job they held earlier. Middle-class families are struggling now and deeply worried about the future.

The Health, Education, Labor and Pensions Committee held a hearing today on plant closings and workers' rights. This summer marks 20 years since Congress passed major plant closing legislation known as the WARN Act, a bill championed by Senator Howard Metzenbaum from Ohio, who

held this seat, and Senator KENNEDY, who is our committee chair today on the Health, Education, Labor and Pensions Committee.

One of the witnesses today was a gentleman from Senator KENNEDY's State of Massachusetts, Joe Aguiar, who worked for a fabric manufacturer for nearly 30 years. He and 900 coworkers were laid off without any notice last summer. As are so many workers in manufacturing, he is about 50 years old. Like so many other workers in my State of Ohio, in Springfield and Lima and Tiffin and Marietta, their lives have been upended. For most, the pensions and health care which they earned and which they desperately need and which they thought had been promised to them, so often the pensions and health care will be slashed.

Mr. Aguiar, as workers do in places such as Marion, OH, and Xenia and Zanesville—those workers need an extension of unemployment insurance. Now more than ever, we need to extend those unemployment benefits because so many workers see their unemployment benefits run out because they can't find comparable jobs.

It is very simple. Economists on Wall Street and Washington and universities all say that every dollar invested in unemployment benefits leads to \$1.64 in growth—more than any other stimulus package, any other stimulus program, any other way to put money into the economy. We had this discussion, and the unemployment extension was blocked by congressional Republicans some months ago. In addition, we offered a stimulus package which will, in fact, put money in people's pockets—a good thing. Unemployment extension would have come quicker and put money into the pockets of those who will spend it immediately because they are struggling. They need the money for gas for their cars to go out and look for jobs, for food to feed their families, and the daily necessities of life.

The Congressional Budget Office agrees that a dollar in unemployment benefits leads to \$1.64 in growth, finding that extending unemployment benefits is cost-effective and the single fastest acting measure.

The Washington Post, Los Angeles Times, New York Times, and the Akron Beacon Journal in my State all agree. Last week, the House approved an extension of unemployment insurance. The Democrats are trying to—or are going to—include unemployment insurance extension in the stimulus package. We hope the Republicans don't filibuster this, and that the President finally changes his mind and signs an extension of unemployment insurance. It is a reasonable extension and needs to be done now.

As I came over here today to talk about unemployment benefits and extending them, my thoughts turned to Senator KENNEDY and his family. Senator KENNEDY, who we find out today has been diagnosed with a serious illness, has been fighting for an extension

of unemployment insurance certainly lately in this case, and other times, but he is always fighting for workers, the poor, and the middle class. Nobody in this Congress has consistently, or for a longer period of time, in the history of this institution, fought for workers or the middle class the way Senator KENNEDY has, and the way he will continue to; he has been tireless about this.

Just last week, I stood on the Senate floor with Senator KENNEDY as we worked together to pass legislation that came out of his committee, a committee on which I also sit, the Health, Education, Labor, Pension Committee, to establish collective bargaining rights for firefighters and others. When it comes to issues facing working families, Senator KENNEDY, as recently as last week, fought for legislation to give workers a civil right—the right to collective bargaining. He has been the compass of this institution too. He focuses his attention and our attention on the insecurities so many families in this country are facing. Our prayers today are with him as he heals, and with his lovely family.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we close morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. What now is the pending business before the Senate?

#### MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2008—Continued

The PRESIDING OFFICER. A message from the House is the pending measure.

The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I raise a point of order that title VIII in its entirety, section 1004 of title X, and section 1005 of title X, each violates paragraph 4 of Senate rule XVI in the Reid motion to concur in the House amendment No. 2, with an amendment.

The PRESIDING OFFICER. The point of order is sustained. The motion to concur with the amendment falls.

AMENDMENT NO. 4803

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, I appreciate the patience of my friend from New

Jersey. He was here much earlier in the day. For a number of reasons we were unable to have him recognized at that time, but he is always such a team player who is willing to wait. I appreciate my friend from New Jersey very much.

At this time I now move to concur with House amendment No. 2, with the amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Mr. REID moves to concur in the House amendment No. 2 to Senate amendment to H.R. 2642 with an amendment 4803.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4804 TO AMENDMENT NO. 4803

Mr. REID. I have a second-degree amendment at the desk and I now ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4804 to amendment No. 4803.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

CLOTURE MOTION

Mr. REID. I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment No. 2 to H.R. 2642, the Supplemental Appropriations bill, with an amendment, Senate amendment No. 4803.

Harry Reid, Richard Durbin, Benjamin L. Cardin, Charles E. Schumer, Sheldon Whitehouse, Patty Murray, Bill Nelson, Amy Klobuchar, Jack Reed, Dianne Feinstein, Mary L. Landrieu, Joseph Lieberman, Daniel K. Akaka, Barbara A. Mikulski, Byron L. Dorgan, Maria Cantwell, Sherrod Brown.

Mr. REID. I now ask unanimous consent the mandatory quorum required under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have had a number of conversations with the distinguished Republican leader and I

have told him where we are going to try to get by the end of the work week on this matter now before the Senate, and he is mulling over my suggestions that I made to him this afternoon. We will meet again and talk about this tomorrow.

We also have now the budget conference report that has been filed. That was done this afternoon. Tomorrow I am going to ask consent that we move to that. There is a 48-hour rule. Under the 48-hour rule we can't get to that until Thursday at 4 o'clock. I think it would be to everyone's interest to see if we could get rid of that—I don't know if "get rid of" are the right words, but see if we can move on to that and adopt that report tomorrow.

We also received from the House the veto message—I am sorry, the farm bill. We are going to have to, at some time before we leave here, have a vote on overriding the President's veto on the farm bill. So there are things we have to do.

The budget has a statutory time. I am not certain we will need to use the whole 10 hours. I rather doubt it. We have the veto override. That is very privileged. We can spend a lot of time on that or whatever time people want. We hope we could get to that very quickly and see where the votes are.

And then we still have the supplemental to dispose of. So we have a lot to do in the next few days, but with some cooperation I think we can get to where we need to get. I certainly hope so. I hope that is important and understandable to the Senators.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING OUR ARMED FORCES

SERGEANT JOSEPH A. FORD

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of the brave Army sergeant from Knox, Indiana. Joseph Ford, 23 years old, died on May 10, 2008, in Al Asad, Iraq, from injuries sustained when his vehicle overturned during a training operation. With an optimistic future before him, Joseph risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A lifelong Hoosier, Joseph graduated from Knox High School in 2003. His teachers and friends recall a young man with a thirst for knowledge and a generous spirit. Shortly after finishing high school, Joseph joined the Indiana National Guard and was stationed in New Albany. Joseph was fiercely dedicated to serving his country and disciplined himself to meet the high

standards of military fitness. He enrolled in the University of Southern Indiana, where he studied history, a passion he had since high school. In June, Joseph married his wife, Karen, of Evansville, IN.

Joseph traveled to Georgia in December with his National Guard unit for training before he left for his first deployment in Iraq. He was scheduled for deployment through 2009 but planned to return this summer to celebrate his first wedding anniversary with Karen. Assigned to the 1st Squadron, 152nd Cavalry Regiment, Army National Guard in New Albany, IN, Joseph served as a turret gunner with the Indiana National Guard's 76th Infantry Brigade in Iraq.

Today, I join Joseph's family and friends in mourning his death. Joseph will forever be remembered as a loving husband, son, and friend to many. He is survived by his wife Karen; his parents Sam and Dalarie; his brother Matthew; and his sister Abbey Ambrose.

While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Joseph, a memory that will burn brightly during these continuing days of conflict and grief. Today and always, Joseph will be remembered by family members, friends, and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Joseph's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Joseph's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Joseph A. Ford in the official RECORD of the United States Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. When I think about this just cause in which we are engaged, and the pain that comes with the loss of our heroes, I hope that Joseph's family can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Joseph.

#### HONORING ALPHA COMPANY 641

Mr. SMITH. Mr. President, Alpha Company, 641 Aviation Regiment is an Army National Guard company that operates C-23 Sherpa cargo airplanes. Headquartered in Portland, OR, the company has detachments in Oklahoma, Washington, and South Dakota. Commanded by MAJ David Doran, the company consists of 44 soldiers and 10 C-23 airplanes. The Oregon soldiers that are part of the company hail from all around the State of Oregon: Portland, Salem, Pendleton, McMinnville, La Pine, Hermiston, and Dallas. The company deployed to Iraq from October 2007 to May 2008.

The story of Alpha Company, 641 Aviation Regiment is as complex as the 44 personalities that comprise the company. It is a mixture of experienced combat veterans on their second or third tour and young and eager soldiers experiencing their first deployment. The youngest is 21; the oldest is 54. There are married fathers and unmarried bachelors. There are full-time guardsmen and traditional National Guard, who split time as electricians, students, civilian aviators, and aspiring attorneys. Identifying with "Ducks," "Beavers," "Huskies," and "Sooners," the dynamics of this hodgepodge is sometimes surprising, generally humorous, and always fascinating.

From Oregon to Oklahoma and Washington to South Dakota, the soldiers in this company have interacted with individuals from all across the country, with equal parts of Midwest know-how and Northwest can-do. As a result, those from Oregon have learned the right way to eat grits, and those from Oklahoma have learned 20 different words to describe "coffee." Each person in this company has brought a unique perspective and fresh batch of life experiences to share with the group. Everyday, a new story begins with "back when I was a kid . . ." or "on my last deployment . . ." This company brought together a cross section of America, fresh with an unflinching sense of duty, deep-seated pride in their job, and an unquenchable drive to get that job done.

Alpha Company operates the C-23 Sherpa, which is the least understood and most underestimated aircraft in the Army inventory. With its boxy dimensions, it has assumed the moniker "BOX CAR." As unsightly and unusual as it may be, pound for pound and passenger for passenger, this rat-nosed aircraft has moved more parts and people around Iraq than most other military airframes. The crews who fly the Sherpa will tell you that what it lacks in looks, it makes up for in dependability. The Sherpa is the unsung, unappreciated, and unassuming aircraft that gets it done, around the clock. Whether it is a box of widgets or 14 soldiers going out on R&R leave, this aircraft and its crews make it happen.

In October 2007, Alpha Company mustered and deployed to Balad Air Base in

Iraq. The unit quickly assumed the mission and took over all Army fixed-wing cargo operations under Multi-National Forces-Iraq. This expansive support covered Mosul, Kirkuk, and Basra, in addition to a dozen smaller air bases throughout the country. From passengers to blood to ammunition, Alpha Company flew six aircraft per day to get as much moved as possible. This amounted to two aircraft above and beyond the mission requirement. Alpha Company implemented the first fully standardized night vision goggle flight program, greatly increasing aircrew survivability by operating in hours of darkness. This also enhanced the performance capabilities of the C-23 by operating in generally cooler temperatures.

The company's support of Other Coalition Forces-Iraq, OCF-I; Special Operations, was instrumental in the timely transportation of sensitive cargo and detained personnel. The company increased existing support by 100 percent and developed mission support into Baghdad. This mission had not existed prior to Alpha Company's arrival. It filled a crucial gap in aviation support for OCF-I and was pivotal to ongoing combat operations. LTG Stanley McChrystal, head of special operations in Iraq, cited the unit for their dependable and outstanding service to OCF-I.

In April 2008, the unit surged to increase its operational tempo by 100 percent to support combat operations in and around Basra. During the 2 weeks at the height of the operation, Alpha Company flew 377 hours, more hours than ever recorded by a C-23 company in a 2-week period. By the end of April, the company was preparing to redeploy back to home-stations, families, and loved ones. For their meritorious performance of duty and courage over the dangerous skies of Iraq, the company earned 4 Bronze Star Medals, 7 Meritorious Service Medals and 38 Air Medals. During their 6 months in Iraq, the company flew over 4,000 flight hours, moved over 9,000,000 pounds of cargo and over 20,000 passengers, more than any other C-23 company in a 6-month period since the start of Operation Iraqi Freedom.

Alpha Company's accomplishments are extraordinary and truly reflective of the distinguished service and dedication of America's citizen soldier. The State of Oregon is profoundly proud and deeply grateful for their sacrifice and commitment. It is with great pride that I honor their service today and enter their accomplishment into the RECORD.

#### NATIONAL MILITARY APPRECIATION MONTH

Mrs. BOXER. Mr. President, I am proud today to ask my colleagues to join me in recognizing the National Military Appreciation Month. As a cosponsor of the bill that designated May as the National Military Appreciation Month in 1999, I ask my colleagues and

fellow Americans to honor, remember, and thank the generations of American military personnel and their loved ones, whose sacrifices have brought us the liberties that we enjoy today.

This May, the National Military Appreciation Month acknowledges a number of important milestones that highlight the best traditions of our Nation's military history: Loyalty Day, May 1, VE Day, May 8, Military Spouse Appreciation Day, May 9, Armed Forces Day, May 17, and Memorial Day, May 26. These special dates during National Military Appreciation Month provide reminders of the invaluable contributions that our military personnel and their loved ones have made throughout the course of our Nation's history. Every man and woman who has worn the uniforms of our armed services, and every person who has supported their endeavors deserves our gratitude and respect. Their contributions continue to protect and promote the values that define the United States.

During this month of remembrance, I am continuing my work to ensure that our servicemembers and veterans receive the honor and care they rightly deserve, and that those serving in war can return home soon.

In the Senate, I am working for concurrent receipt for our retired military personnel so that disabled veterans can receive the benefits they deserve. With Senators LIEBERMAN, BOND, and OBAMA, I have also championed efforts to improve mental health care and services for Active Duty military and veterans of the wars in Iraq and Afghanistan. I proudly support Senator JIM WEBB's new GI bill, S. 22, to vastly improve educational benefits for our newest generation of servicemembers and veterans. We must all remain committed to ensuring that our military members, veterans, and their families are taken care of.

As Americans from across the Nation pay tribute to our military this month, I offer my appreciation and admiration for all the men and women who have contributed to the history and traditions of the U.S. Armed Forces.

#### THE FARM, NUTRITION, AND BIOENERGY ACT OF 2007

Mr. SPECTER. Mr. President, I have sought recognition to discuss my reasons for voting for the conference report to H.R. 2419, The Farm, Nutrition, and Bioenergy Act of 2007. Also known as the 2007 farm bill, this legislation determines America's agriculture and domestic nutrition policy for the next 5 years. It has, received substantial criticism because of subsidies paid to farmers of five major commodities or crops: corn, cotton, rice, soybeans, and wheat. On April 29, 2008, President Bush called the legislation a "massive, bloated farm bill" and has said he would veto it. The bill has also drawn criticism from taxpayer advocacy groups.

The 2007 farm bill conference report scores at \$307 billion over 5 years. How-

ever, this increase is fully off-set with customs users fees that are collected by the Border and Transportation Security Directorate—formerly the U.S. Customs Service—of the Department of Homeland Security for processing passengers, conveyances and merchandise entering the United States. The White House has agreed that this bill does not include any tax increase.

During my tenure in the U.S. Senate, I have fought hard for agriculture and nutrition programs in Pennsylvania. However, I do have concerns with direct payment subsidies for farmers where the amount is not based on the price of the commodity and, more importantly, with large, almost endless, payments to producers. In 2006, Riceland Foods, Inc. located in Stuttgart, AR, received \$7,710,705 for rice, soybean, wheat, and corn production. In 2006, the top 10 recipients of direct subsidies for production of corn, cotton, rice, soybeans, and wheat were, in order of rank, Iowa, Illinois, Texas, Nebraska, Kansas, Minnesota, Arkansas, Indiana, North Dakota, and Missouri. Pennsylvania's agriculture producers are not the recipients of these large subsidies, as Pennsylvania is a major producer of milk, Christmas trees, and specialty crops, which include mushrooms, apples, and fruits and vegetables. My home State ranks No. 1 in the production of mushrooms, No. 4 in the production of apples and freestone peaches, and No. 5 in the production of milk and grapes in the U.S. Pennsylvania ranks 32 out of 50 in terms of Federal Government agricultural payments, despite the fact that agriculture is PA's No. 1 industry.

These large subsidies were a major concern when I voted against the 2002 farm bill conference report, even though the bill contained crucial programs for Pennsylvania, including the milk income loss contract, MILC, and conservation and nutrition programs. It would be my preference that we move toward a free market for agriculture.

While this legislation is not perfect, it is a much better alternative to an extension of the 2002 farm bill or the reversion to nonexpiring provisions of primarily the Agriculture Adjustment Act of 1938 and the Agriculture Act of 1949—permanent law. The 2002 farm bill did not include any reforms of program subsidies and the 1938 and 1949 laws are drastically different from current policy, inconsistent with current farming, marketing, and trade agreements, and would mandate higher subsidy rates and land controls.

I have reviewed the pending conference report to determine its benefits for the entire country, not just Pennsylvania where I have heard from many constituents and stakeholders expressing their support. This bill is not perfect, but it still moves America in the right direction. Our Nation, like Pennsylvania, will on the whole benefit from the 2007 farm bill. It makes key reforms to subsidy programs which I

will discuss more in detail later. In addition, this legislation includes funding for domestic nutrition programs, conservation programs, programs to help rural America, and the milk income loss contract, MILC, program for America's dairy producers. For the first time, the farm bill would extend assistance to specialty crop producers through marketing and research programs.

This conference report includes significant subsidy reforms. Under current law, producers are not eligible for payments if their adjusted gross income, AGI, exceeds \$2.5 million. In the final 2007 farm bill, a producers' non-farm income may not exceed \$500,000 in order to receive a payment. Further, a producers' farm income, or AGI, cannot exceed more than \$750,000 in order to receive a payment. One key reform is the elimination of the so-called "three-entity rule," which enabled a farmer to collect twice the maximum payment limit amount by setting up multiple businesses on the same farm. The White House was influential in this outcome, which I support. Although the final language did not attain more stringent reforms as preferred by the White House or the Dorgan/Grassley amendment to the 2007 farm bill, this AGI reform is a step in the right direction. I have been a consistent supporter of efforts to limit payments to the major program crop producers. Further, the measure includes Crop Insurance subsidy reform by reducing the administrative and operating—A&O—reimbursement provided to agents by 2.3 percentage points and increasing catastrophic—CAT—and non-insured assistance program—NAP—insurance fees.

The bill includes \$209 billion for nutrition programs which is 68 percent of the entire cost of the bill. I have long supported nutrition programs, also known as domestic food assistance programs, which are crucial to help less fortunate Americans and those experiencing difficult times. They include the Food Stamp Program, The Emergency Food Assistance Program, TEFAP, the Commodity Supplemental Food Program, Community Food Projects, the Seniors Farmers' Market Nutrition Program, and fresh fruit and vegetable initiatives.

The Food Stamp Program helps 26 million low-income Americans buy healthy food each month. Its benefits have not been raised in 30 years and the conference report raises the minimum benefit from \$10 to \$14 per week, indexed for inflation. Further, the final 2007 farm bill also includes \$1 billion to expand the Fresh Fruit and Vegetable Program—FFVP—nationwide to reach nearly 3 million low-income children. The FFVP allows schools to offer and promote free fresh fruits and vegetables during the day.

The conference report includes \$25 billion for conservation programs to help America's farmers use environmentally friendly farming practices in

order to allow farmers to till the soil and raise livestock, while still protecting the land. In Pennsylvania alone, about one-quarter of all acres is farmland. The Environmental Quality Incentives Program, the Wetlands Reserve Program, the Grassland Reserve Program, the Farm and Ranch Land Protection Program, and the Wildlife Habitat Incentives Program are all worthy initiatives that need improvement and funding. Beyond providing funding for national conservation programs, the bill has \$438 million for conservation programs in the Chesapeake Bay Watershed which includes large sections of Pennsylvania.

Rural America, the backbone of our country, will benefit from this comprehensive legislation by reducing the backlog of unfunded pending rural development water and wastewater loan and grant applications. Also, broadband service will be expanded to rural America to allow access to those businesses, farms, and families in rural areas with no or very limited service. Further, a new rural microenterprise assistance program would be established for low and moderate income individuals to help develop the skills necessary to establish new small businesses in rural America. Lastly, the conference report provides \$250 million in mandatory funding for grants and loan guarantees for renewable energy and energy efficiency systems for farmers, ranchers, and rural small businesses. One item of note is that reduction of the production tax credit for corn ethanol from 51 cents/gallon to 45 cents/gallon to reduce the incentive to shift corn production from feed to fuel in order to ensure that we are planting enough acres for other crops, including wheat and soybeans, for food.

Finally, our dairy producers will continue to have the safety-net they deserve with a much-needed modification. The 2007 farm bill conference report funds the MILC program that provides countercyclical payments to our dairy producers when the price of milk falls below a set trigger price. This trigger price, as modified, will be adjusted on a monthly basis depending on the changes in the costs of feed. Increasing input costs are straining our producers and this will ensure that the payment will compensate for the increasing costs incurred by the dairy farmer. Also, the payment rate will be increased back to 45 percent from 34 percent and the cap on milk production will increase from 2.4 million pounds to 2.98 million pounds per year. Since its inception in the 2002 farm bill, the MILC program has provided more than \$220 million to Pennsylvania dairy farmers. I have been a strong supporter of a mechanism to ensure that dairy farmers receive a fair price for the milk they produce considering the increased input costs. The bill also includes provisions to make the dairy industry more transparent by requiring mandatory reporting of dairy commodities and establishing a Federal Milk Marketing Order Review Commission.

America's specialty crop producers which include most fruits and vegetables will get the assistance they need to market their products. The bill provides about \$1.3 billion in mandatory funding for specialty crop block grants, technical assistance, and farmers' market promotion. This is the most ever set aside in a farm bill to assist these farmers who are left out of traditional Federal farm programs. The measure establishes the National Clean Plant Network consisting of centers across America to efficiently produce and distribute healthy planting stock of critical high-value new varieties of fruit trees and grapevines. These centers will be the first line of defense against devastating viruses, like the Plum Pox virus outbreak in Adams County, PA, in 1999. Also, both nursery and Christmas trees are included in the Tree Assistance Program which provides disaster relief for growers who lost their crops of trees due to natural disasters. Pennsylvania growers produce over 10 million trees every year.

The 2007 farm bill is good for America and good for Pennsylvania. Therefore, I support this crucial legislation.

#### CUBAN INDEPENDENCE DAY

Mr. NELSON of Florida. Mr. President, I would like to recognize that today, May 20, is Cuban Independence Day. I am honored to join with Cubans around the world in commemorating this day.

On behalf of the people of Florida and all Americans, I rise to reaffirm our solidarity with the Cuban people as they continue their fight for freedom and self-determination. Dictatorships and tyranny have no place in this hemisphere. The U.S must continue to pressure the Cuban regime, while supporting the Cuban people.

It is my great hope, that the people of Cuba, with their passion for liberty and their desire to live in a free and transparent democracy, will soon enjoy the same rights and freedoms that we do. We stand in solidarity with the Cuban people as they continue to fight for democratic change and true independence in their homeland.

Thank you and may God bless the Cuban people.

#### ADDITIONAL STATEMENTS

##### HONORING SARAH ROZENSKY

• Mr. BAYH. Mr. President, I today honor Mrs. Sarah Rozensky, who served with excellence in my office for over 6 years. Sarah performed her duties with the utmost distinction and a level of professionalism and virtue rarely seen. I am proud to have this opportunity to recognize Sarah for the tremendous work she has done for the office and my family. My wife, Susan, and my sons, Beau and Nick, will also be eternally grateful for her service.

Sarah came to my office with the highest of recommendations from the

White House and proved herself invaluable on a daily basis. Her qualities were contagious in our office; everyone learned and benefited from her presence.

For over 6 years, Sarah's meticulous attention to detail set the standard for those around her, as did her positive attitude and superior work ethic. Her gifts will undoubtedly allow her to excel to new heights in the future.

Every member of our staff plays an important role in our service in the Senate and to our respective States, but there are always the few who distinguish themselves as invaluable and irreplaceable. For me, Sarah Rozensky is one of those distinguished few. With Sarah's hard work and assistance, I have been better able to represent the people of Indiana in the Senate. Hoo-siers all owe Sarah Rozensky a debt of gratitude, but most especially, I do.

I am proud today to honor Sarah for her service and commitment to the people of Indiana and the Senate.●

#### RECOGNIZING THE S.C.R.A.P. GALLERY

● Mrs. BOXER. Mr. President, today I am pleased to ask my colleagues to join me in recognizing the exemplary model of service and conservation provided by the Student Creative Recycle Art Program Gallery as it celebrates Earth Month Coachella Valley. Their efforts to highlight the importance of environmental consciousness through community activities provides an example for our Nation.

For more than 30 years, America has recognized the importance of environmental preservation, and we have dedicated every April 22, Earth Day, as a day for environmental consciousness. The S.C.R.A.P. Gallery has taken bold steps to heighten America's awareness of conservation in dedicating the entire month of April to environmental awareness.

Throughout the month of April, the S.C.R.A.P. Gallery operates a number of enrichment activities throughout southern California, aimed at improving youth education and environmental awareness. Events such as field trips that highlight the importance of waste prevention, recycling programs that encourage youth to transform used bicycles into artwork, theater productions that enable students to attend professional children's theater performances focused on conservation, and hands-on events that allow students to gain direction from local and renowned artists have helped engage youth throughout southern California and helped to highlight the importance of environmental concerns.

For more than a decade, the S.C.R.A.P. Gallery has been recognized as an integral community organization by numerous organizations and municipalities. The S.C.R.A.P. Gallery has received the Arts Organization Award from the city of Indio, the Best Grassroots Organization Award from the

U.S. Department of Education, the Waste Reduction Award from the California Integrated Waste Management Board, the Keep California Beautiful Award, the Governor's Environmental and Economic Leadership Award, and the Award of Achievement in Education from the Natural Resources Council of America.

This year, as the S.C.R.A.P. Gallery dedicates an entire month to conservation and environmental awareness, I am pleased to ask my colleagues to join me in recognizing their tremendous leadership. The efforts of the S.C.R.A.P. Gallery have successfully engaged communities of young people and have highlighted the importance of environmental awareness throughout their community.●

#### RECOGNIZING MOORPARK HIGH SCHOOL

● Mrs. BOXER. Mr. President, I ask my colleagues to join me in recognizing the great work and remarkable accomplishments of Moorpark High School's Academic Decathlon team for winning the 2008 U.S. Academic Decathlon Championship. Members of the National Championship team include Jonah Buck, Anaamika Campeau, Angela Chen, Justine Levan, Chrissa Rutkai, Kris Sankaran, Paul Watanabe, Christie Calle, Colin Calle, and team coach Larry Jones.

Moorpark High School has earned the distinction of becoming a three-time U.S. Academic Decathlon Champion, having previously won the prestigious competition in 1999 and 2003. The 2008 Moorpark High School Academic Decathlon team achieved the highest score in the U.S. Academic Decathlon's 26-year history.

Competing in an academic decathlon requires hard work, dedication, and determination. These dedicated students from Moorpark High School devoted many hours of their leisure time honing their skills in preparation for the Academic Decathlon competition. Their commitment to excellence has rightfully earned them the respect and admiration of their community, friends, and family. The 2008 Moorpark High School Academic Decathlon team is a great source of pride and joy to their community and is a great testament to the value of team work.

I invite all of my colleagues to join me in congratulating California's Moorpark High School Academic Decathlon team for winning the 2008 U.S. Academic Decathlon Championships.●

#### SCREEN ACTORS GUILD 75TH ANNIVERSARY

● Mrs. BOXER. Mr. President, I wish to recognize the important work and accomplishments of the Screen Actors Guild as the organization celebrates its 75th anniversary. Founded on June 30, 1933, the Screen Actors Guild was established in part as a reaction to the restrictive, long-term studio engage-

ment contracts. Since then, it has helped to protect and improve the lives of actors and their families by fighting for fair wages and health and retirement benefits.

The Screen Actors Guild has a unique position in labor history. It claims a former Senator, George Murphy, and a former President, Ronald Reagan, as former union presidents, as well as James Cagney, Charlton Heston, Edward Asner, Patty Duke, Dennis Weaver, and many other notable actors. Its current president is Alan Rosenberg.

The founding meeting of the Screen Actors Guild included just six actors. Yet, 75 years later, it has more than 127,000 members with 20 offices across the United States. It represents a broad variety of members from motion pictures, television programs and commercials, and nonbroadcast industries such as video games, music video, Internet, and other new media formats. The Screen Actors Guild has also taken a leading role in combating movie and new media piracy, while working toward increased privacy protections, child labor laws, and health care reform. With the rapid expansion of so many alternative forms of entertainment, it has also met the challenge of representing its members in new challenging contract issues. And, of course, its esteemed Screen Actors Guild Awards honor its members each year for outstanding performances.

I invite all of my colleagues to join me in commending the Screen Actors Guild for its dedication to improving workers' rights on its 75th anniversary.●

#### HONORING LOUIS FERNANDEZ

● Mrs. BOXER. Mr. President, I am pleased to ask my colleagues to join me in recognizing Dr. Louis Fernandez as he retires from a long career in public service as provost and vice president for academic affairs with California State University, San Bernardino. His service and commitment to the students, faculty, and staff of California State University, San Bernardino, and to his community have provided an example for us all.

After earning his doctorate in geology from Syracuse University, Dr. Fernandez served at several institutions of higher learning throughout the Nation. At each of these universities, Dr. Fernandez was as an exemplary educator and community leader. Through his career at the University of New Orleans as a professor, dean and department chair, Dr. Fernandez worked to secure the university's first National Science Foundation grant to recruit and mentor underrepresented students in the geosciences. The State of Louisiana named him Educational Administrator of the Year in 1991, and he has since received numerous laudatory titles and honors for his work in education.

Dr. Fernandez later joined the California State University, San

Bernardino campus. By 1994 he served as acting vice president for academic affairs, and was named provost a year later. Since then, Dr. Fernandez has served the university and the surrounding communities by working to secure a sound academic plan for academic growth, a responsible university budget, and a university-wide commitment to student diversity.

For several years, Dr. Fernandez chaired the National Association of Geology Teachers Minority Affairs Committee. He served on the National Science Foundation's Advisory Committee to the Earth Sciences. He chaired the American Geological Institute's Minority Participation Program Advisory Committee, and as a member of the Geological Society of America's Ad Hoc Committee on Minorities, and the National Association of Geology Teacher's Minority Scholarship Program. For his broad service and leadership, the Hispanic Caucus of the American Association of Higher Education awarded him the Outstanding Support of Hispanic Issues in Higher Education Award.

Throughout his long career in education and public service, Dr. Louis Fernandez has consistently worked to foster stronger communities and attain higher education ideals. I am pleased to ask my colleagues to join me in congratulating him on his retirement.●

#### 2008 WE THE PEOPLE NATIONAL FINALS

● Mr. CORNYN. Mr. President, from May 3-5, 2008, more than 1,200 students from across the country visited Washington, DC to take part in the We the People: The Citizen and the Constitution National Finals. We the People is the most extensive educational program in the country developed to educate young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

While in Washington, the students took part in a 3-day academic competition that simulates a congressional hearing in which they "testify" before a panel of judges. Students demonstrated their knowledge and understanding of constitutional principles as they evaluated, assumed, and defended positions on relevant historical and contemporary issues. It is important to note that results of independent studies of this nationally acclaimed program reveal that We the People students have knowledge gains that are superior to comparison students. Students also display a greater political tolerance and commitment to the principles and values of the Constitution and Bill of Rights than do students using traditional textbooks and approaches. With many reports and surveys indicating the lack of civic knowledge and civic participation, I am pleased to support such a superb pro-

gram that is producing an enlightened and engaged citizenry.

I am proud to announce that a class from Elkins High School in Missouri City, represented the State of Texas at this prestigious national event. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and earned the chance to come to our Nation's Capital and compete at the national level.

Mr. President, the names of these outstanding students from Elkins High School are: Krystal Castillo, Andrea Cavazos, Deborah Choate, Andrew Cockroft, Lucretia Eiler, Jimmy Guerrero, Josh Hanks, Lara Hogue, Nick Johnson, Tiffany Kell, Curtis Kelso, D.J. Kinneman, Matt MacKo, Colton Mendez, Jonny Murthy, Olusola Oyewuwo, Tej Pandya, Bryan Philpott, Justina Rodriguez, Deepa Sabu, Nick Shipman, Piarose Siatong, Ivette Soto, Achal Upadhyaya, Courtney Williams, Angela Wu, and Arif Yusuf.

I also wish to commend the teacher of the class, Marilyn Ellington, who is responsible for preparing these young constitutional experts for the National Finals. Also worthy of special recognition is Jan Miller, the State coordinator who is responsible for implementing the We the People program in my State.

I congratulate these students on their exceptional success at the We the People national finals.●

#### TRIBUTE TO DR. TIMOTHY WHITE

● Mr. CRAPO. Mr. President, I am honored to recognize the close to 4 years of dedicated service and leadership provided by Dr. Timothy White, outgoing president of the University of Idaho. Son of immigrants from Argentina to Canada and then to the United States, Dr. White is a first-generation college graduate. He earned his Ph.D. from the University of California, Berkeley, and is known internationally for his work in kinesiology, gerontology and human biodynamics, working in those fields at the University of Michigan and at Berkeley. Before coming to Idaho in August 2004, Dr. White served as provost and executive vice president at Oregon State University and as interim president.

Dr. White put his vision of excellence in research, math and science into practice at the University of Idaho. Indeed, he shares my strong belief in the critical importance of math and science to education, from primary school to graduate degree programs. In a recent guest editorial, Dr. White stated: "Idaho will prosper in the global economy if our work force is better prepared in the areas of math, science, technology and engineering Critical-thinking and reasoning abilities—cornerstones of an educated citizenry and work force—are also dramatically aided by strong math and science skills." And Dr. White put ideas into action, overseeing critical programs

that bridge the gap between middle and high school teachers and students and the University. While serving as president, Dr. White oversaw both the Gateway to Mathematics Program, which provides middle school teachers the chance to improve math teaching skills through interactive distance technology, and the Gateway to Calculus Program, which offers rural high school students an opportunity to learn calculus online when their particular school cannot offer such courses. He also oversaw the innovative and nationally acclaimed Polya Mathematics Learning Center at the University which helps undergraduate students master entry-level mathematics in an interactive and creative way, using both advanced technology and teaching staff to help students of varied learning styles overcome aversions to math.

Dr. White's influence reached beyond math and science programs and initiatives. He created the Plan for Renewal of People, Programs and Place, based on the report of a task force he established to reinforce and enhance the university's academic and institutional excellence in today's world. The plan centered the University's resource allocation and mission, vision, and values around five key academic areas: science and technology, liberal arts and sciences, entrepreneurial innovation, the environment, and sustainable design and lifestyle. He saw the university engage in programs such as Operation Education Scholarship, Water of the West, Building Sustainable Communities, Bioregional Planning and Community Design and Biological Applications of Nanotechnology. During his term as president, the University of Idaho has been involved in many public-private partnerships with science and technology across the State, particularly in agriculture research. In 2006, the university opened an aquaculture biotechnology laboratory at its Hagerman fish culture experiment station, and University scientists now conduct cutting edge small grains germplasm research together with USDA Agriculture Research Service staff at a new addition to the ARS Aberdeen research facility, also opened in 2006. Under the direction of Dr. White, the University of Idaho continued its efforts to open a critical agriculture research endeavor the Idaho Center for Livestock and Environmental Studies that will serve as an environmental research center for dairy and livestock and operate as a self-sustaining animal feeding operation. And agriculture is not the only science and technology partnership the university has pursued under Dr. White's leadership: it is a partner with the Idaho National Lab in a multiuniversity public-private research and development endeavor in Idaho Falls called the Center for Advanced Energy Studies.

Dr. White has worked diligently over the past 4 years to adapt the University of Idaho to our changing world,

meeting students' educational needs and keeping the university on the cutting edge of innovative education, research, and academic excellence. I wish Tim and his wife Karen all the best as they move to southern California and he assumes the chancellorship of University of California, Riverside, this fall.●

#### HONORING DON BRIGHT,

● Mr. JOHNSON. Mr. President, today I pay tribute to Don Bright, who has served as supervisor of the Nebraska National Forest since 2001. In this capacity, Don has overseen the management of nearly 1.1 million acres of public land, including the Buffalo Gap and Fort Pierre National Grasslands, in my home State of South Dakota. I have enjoyed working with Don and value his hard work and leadership. I know that Don will carry this same degree of professionalism with him to his new position at the Albuquerque Headquarters.

I want to take a few minutes and explain to the Senate the role Don has played in shaping the relationship of the Forest Service and local communities. As supervisor of the Nebraska National Forest, Don guided a revision of its Land Management Plan and took the lead in addressing complicated, yet important, prairie dog management issues. By working with area ranchers to find solutions to managing local resources, Don helped foster a spirit of collaboration that benefits all involved.

For the past 8 years, South Dakota has faced a devastating drought and continual threat of fire throughout its grasslands. In response to this challenge, Don has improved fire and fuels management plans and worked hand-in-hand with local volunteer fire departments to form lasting bonds of cooperation that help protect both lands and citizens.

Most importantly, Don is someone that is trusted by and has worked well with the many groups interested in public lands management throughout South Dakota and Nebraska. His countless hours of hard work have undoubtedly had a positive impact for the Forest Service.

In closing, I want to thank Don Bright for his professionalism, service and assistance over these many years and wish him the best of luck in his new position. I know that Don can leave knowing that future generations will be well-served by his efforts.●

#### TRIBUTE TO COLONEL KENNETH O. MCCREEDY

● Ms. MIKULSKI. Mr. President, I wish to publicly commend and congratulate Colonel Kenneth O. McCreedy, U.S. Army, upon his retirement after 28 years of military service. I have come to know and respect Colonel McCreedy over the last 3 years, while he served as the installation commander of Fort

Meade, MD. His tenure as the installation commander was highlighted by his constant civic engagement with the Fort Meade military and civilian community. During this time he signed the first Army Community Covenant in Maryland, solidifying support for servicemembers and their families.

Colonel McCreedy was proactive in working with surrounding counties to prepare them for the growth challenges of BRAC 2005. Placing a heavy emphasis on strong community engagement, he worked closely with the Anne Arundel County School Board to secure the International Baccalaureate Program and Homeland Security Signature Program for Meade High School. Colonel McCreedy spearheaded the first two Meade Alliance Education Summits that focused on working with school boards and colleges to develop programs and initiatives to prepare today's students for future careers in the Federal Government. I am extremely grateful for the outstanding leadership and keen sense of community service that Colonel McCreedy has brought to the servicemembers, families, and civilian employees of Fort Meade.

Commissioned as a military intelligence officer, Colonel McCreedy first served at Fort Riley, KS as the S2 and Scout Platoon Leader of 3-37 Armor and assistant S2 of the 2nd Brigade, 1st Infantry Division. After completing the Post-Graduate Intelligence Program at the Defense Intelligence College and Spanish instruction at the Defense Language Institute in Monterey, CA, Colonel McCreedy was assigned to the U.S. Southern Command in Panama as a country analyst in the J2. Following Operation JUST CAUSE, he was assigned to Fort Hood, TX, where he was a G2 Operations Officer in the Third Corps, commanded a CI/IPW Company in the 163rd Military Intelligence Battalion, and served as the S3 Plans Officer for the 504th Military Intelligence Brigade.

After attending school at Fort Leavenworth, KS, Colonel McCreedy served in Germany as the V Corps G2 Plans Officer, S3 of the 302nd Military Intelligence Battalion, and S3 of the 205th Military Intelligence Brigade. He then served as a member of the Commander's Initiatives Group while on duty in Sarajevo, Bosnia-Herzegovina. Returning from Europe in 1999, he served as a Fellow at the National Security Agency at Fort Meade, prior to his assignment to Fort Gordon, GA, as commander of the 201st Military Intelligence Battalion. He next was appointed professor of military science at Old Dominion University in Norfolk, VA. After attending the Army War College, Colonel McCreedy worked in the Force Transformation Office in the Office of the Secretary of Defense.

Colonel McCreedy holds a bachelor's degree in history from Washington and Lee University, master's and doctorate degrees in history from the University of California, Berkeley, a Master of Military Art and Science from the

Army Command and Staff College, and a Master of Strategic Studies from the Army War College. He is a graduate of both the Army's School of Advanced Military Studies and the Advanced Strategic Art Program.

Among his awards and decorations, Colonel McCreedy has earned the Defense Meritorious Service Medal, Meritorious Service Medal, Joint Service Commendation Medal, and the NATO Medal.

Mr. President, the Army, the State of Maryland, and the Nation are lucky to have had the service of such a great soldier. He will be sorely missed. Best wishes to Colonel McCreedy and his family.●

#### HONORING THE BAKER COMPANY

● Ms. SNOWE. Mr. President, today I congratulate the Baker Company, a cutting-edge small company from my home State of Maine that has earned tremendous recognition as the Maine International Trade Center's 2008 Exporter of the Year. The award will be presented to the company at the Maine International Trade Day dinner this Thursday, May 22. The company's leadership on a host of safety issues—and the loyal customer base it has earned around the world, including in Europe, Asia, and Africa—make the Baker Company most deserving of this award.

Founded in 1949, the Baker Company, headquartered in Sanford, has consistently been a leader in designing and manufacturing biological safety cabinets, fume hoods, and clean benches. These products make laboratories worldwide safer, more efficient, and better equipped to focus on essential scientific research. From its beginnings, the Baker Company has always been at the forefront of crafting new and unique products to lead the industry. In 1951, the company unveiled the very first clean air cabinet. The firm's solid commitment to craftsmanship and its stellar reputation gained the Baker Company significant acknowledgement over the years. In 1979, Lockheed Aircraft Biosystems chose the company to build a biological safety cabinet for a NASA shuttle flight. Since that time, the firm has only increased its ingenuity and has worked with enterprises worldwide to make improvements to their technological safety.

To best promote its role at the vanguard of laboratory safety, the Baker Company founded the Eagleson Institute in 1989. Dedicated to the memory of the firm's longtime president, John M. Eagleson, the nonprofit institute promotes the practice of lab safety through a variety of mediums, including seminars, lectures, and interactive CD-ROMs. The seminars comprise a vast array of topics, from fundamentals of laboratory safety to safety cabinet technology. The seminars are delivered through a variety of instructional techniques, including role playing, problem solving, and demonstrations.

While the firm hosts frequent sessions at its Sanford headquarters, it occasionally offers them at various locations across the globe. The Eagleson Institute is the Baker Company's distinctive way of making a difference in the industry and of sharing the trade's most critical asset—safety—with others.

The Maine International Trade Center, which is presenting the Maine Exporter of the Year Award to the Baker Company, is Maine's small business link to the world. The center is a public-private partnership between the State of Maine and the businesses that play such a crucial role in expanding the State's economy. The center's goal is to increase international trade in Maine, and, in particular, to help Maine businesses export goods and services. Clearly, it sees in the Baker Company the entrepreneurial spirit and innovation that make Maine's small businesses among the best in the world.

Throughout the decades, the Baker Company's name has been synonymous with unmatched quality and exceptional safety. From its early days, the firm has possessed a commitment to the pharmaceutical, life science, and biotechnology sectors and a determination to create a safer working environment for people in those industries. I congratulate everyone at the Baker Company for their impressive accomplishment in garnering the Maine International Trade Center's 2008 Exporter of the Year Award and wish them lasting success both here and abroad.●

#### REMEMBERING DR. RUFUS JUDSON PEARSON, JR.

● Mr. STEVENS. Mr. President, Dr. Rufus Judson Pearson, Jr., of Southern Pines, NC, passed away in Tamarac, FL on Sunday, May 11, 2008 after a prolonged illness and went to be with the Lord and to the side of his beloved wife, Emily.

Dr. Pearson, the former attending physician to the U.S. Congress, was born in Atlanta, GA, October 8, 1915, the son of Rufus J. Pearson, M.D., and Myrtle Padgett of Richland, GA. He attended the University of Florida and received his doctor of medicine degree from Emory University in 1938 at the age of 22. He trained at Kings County Hospital in Brooklyn and at Grady Hospital in Atlanta and subsequently had a year of intensive training in cardiovascular diseases offered by Harvard Medical School at the Massachusetts General Hospital in Boston, under the tutelage of renowned cardiologist Dr. Paul Dudley White.

Dr. Pearson was fellow of the American College of Physicians, the American College of Cardiology, the Scientific Council, American Heart Association, and member, American Medical Association. He was certified by the American Board of Internal Medicine and by the Sub-specialty Board in Cardiovascular Disease.

In May of 1939, following first year of internship, he married the former Emily Virginia Timmerman of Atlanta, GA, whom he met during his first year as a medical student at Emory.

During World War II, he served overseas as a naval medical officer, and after the war, he entered the private practice of internal medicine in Jacksonville, FL. Shortly after the outbreak of the Korean crisis in 1950, he was recalled to Active Duty and subsequently decided to make the Navy a career.

He rose to prominence in the Medical Corps while serving as chief of cardiology at the National Naval Medical Center in Bethesda, MD, from 1955 to 1961 during the period when open-heart surgery was being pioneered. He later served as chief of medicine at the Naval Hospitals in Charleston, SC and Portsmouth, VA. In 1965, he returned to the al Hospital at Bethesda to serve as director of clinical services and chief of medicine. To each of these assignments, he brought a high level of professional competence, coupled with dynamic leadership, drive and imagination.

In 1966, at the request of speaker John McCormack and Senate majority leader Mike Mansfield and by joint concurrence of both the U.S. House of Representatives and the U.S. Senate, Dr. Pearson was assigned as the attending physician to Congress, a position he held for almost 7 years and only the second physician to ever hold that post. He brought to this unique position exceptional skill, innovation, and farsighted leadership, effecting numerous improvements to the health care delivery system in the Capitol complex. He was highly regarded by Members of the House and Senate, not only as skilled physician, but also as a friend and confidant to many, earning the respect of the Nation's legislators and their staffs.

On numerous occasions—his praises by Members of the House and Senate were made a matter of record in the CONGRESSIONAL RECORD. On such comment offered by Senator Aiken from Vermont is quoted in the RECORD:

Dr. Pearson will probably be missed as much as anyone who as ever has worked in the Capitol. It did not matter what we called him. We started out calling him "Admiral," and pretty soon we called him "Doctor." Finally, he got to be known as "Jud" and his wife as Emily. They certainly are people with whom we could be very proud to have worked.

And another quote from Senator Mansfield of Montana:

Dr. Pearson has created a medical facility in the Capitol that is almost unequaled. His main purpose was our health and well being, but also he was there to offer his friendship and advice whether it be for us, our families, or our staffs. No task was too great, no hours too late, no burden too heavy for "Jud" Pearson. . . . Dr. Pearson's integrity, dedication, and deep devotion have been the cause of his excellence in his present position.

He was chosen to accompany the majority leader and minority leader of the

Senate on their historic trip to China in 1972 and was at that time one of the first few American physicians to enter China since World War II. For his exceptional service to the country while serving at the U.S. Capitol, the President of the United States presented him with the Distinguished Service Medal. Following his retirement in 1973, the Pearsons retired to the Sandhills area of North Carolina.

Dr. Pearson was a most enthusiastic golfer and a member of Columbia Country Club and the Whispering Pines Country Club. He was also a highly skilled and avid bridge player and was invited to participate as a member of the Wolves Club in Southern Pines.

Dr. Pearson was a marvelous and compassionate physician-scholar as well as skilled in his profession. He was a wonderful father and strong patriarch, both generous and kind. But friends and relatives alike will attest that his many significant contributions and achievements pale in comparison to the remarkable example he set as a devoted husband to his beloved wife Emily, to whom he was united in marriage for 67 years, loving her, cherishing her and caring for her until her death at the age of 91. Theirs was truly a marriage made in heaven.

He is survived by his daughter, Mrs. Virginia P. Sudders of Tamarac, FL, and his son, CPT Rufus J. Pearson, III, and daughter-in-law, Elizabeth Pearson, of Wheaton, IL; eight grandchildren: Rufus Judson Pearson, IV, Matthew Allen Pearson, Andrew Clinton Pearson, Mrs. Kathryn Elizabeth Pearson Dickson, Mrs. Amy Sudders Wilke, Mrs. Barbara Sudders Andrade, Ms. Marylou Sudders, Mrs. Susan Sudders Kuper; and nine great-grandchildren.●

#### TRIBUTE TO WILFRED KADLEC

● Mr. THUNE. Mr. President, today I honor Wilfred Kadlec, who served in the Pacific theater of World War II with the U.S. Navy. On this Memorial Day, I would like to commend him for his brave actions and devoted service to our country.

Like many of his generation, Kadlec responded honorably to the call of duty in the Second World War. Kadlec served his country bravely as a Petty Officer, Second Class, on the USS *Radford* and the USS *Klondike*. Kadlec's sacrifice is evident as he received the Purple Heart among many other medals during his service in the U.S. Navy.

Kadlec continued to serve his local and veterans' communities long after his military service ended in 1946. He served as an officer on the Liberty Township board for over 60 years. Also, he is a member of the Veterans of Foreign Wars Post 3179 of Faulkton, SD, and the American Legion Post 259 of Roscoe, SD.

Kadlec is one example of the great generation that carried our Nation through its most difficult times. We are indebted to their sacrifice and their

willingness to fight for the American people and way of life.

Again, I would like to thank Wilfred for his service as we remember all those who have protected freedom around the world and have made sacrifices to keep America safe on this Memorial Day.●

#### TRIBUTE TO DR. CHARLES RUCH

● Mr. THUNE. Mr. President, today I recognize Dr. Charles Ruch, outgoing president of the South Dakota School of Mines and Technology in Rapid City who is retiring after 5 years of service to the university.

The School of Mines was established in 1885 and enjoys a nationwide reputation for excellence in engineering, the sciences, and computer technology. President Ruch has received praise from the South Dakota Board of Regents for his keen focus on the academic, research and public service missions at the university. Since his arrival in 2003, the number of doctoral programs has doubled and the awards for research-related grants and contracts have increased 35 percent in the last 4 years to \$17.2 million. Under his tenure, a new business incubator on campus has created important links between higher education, economic development and the Black Hills region. Additionally, under his visionary leadership, the School of Mines has conducted "cutting edge" defense research projects on pressing current day issues such as detecting and defeating improvised explosive devices and developing new technologies to inexpensively repair combat vehicles. He has been recognized by faculty, students and alumni as a strong advocate for the institution.

His leadership and dedication to the School of Mines will be greatly missed. It gives me great pleasure to congratulate Dr. Ruch on a successful career in higher education and wish him the best on his retirement.●

#### TRIBUTE TO SQUIRE RUDOLPH BROEL

● Mr. THUNE. Mr. President, today I recognize the 90th birthday of Mr. Squire Rudolph Broel.

A native South Dakotan, Squire was born in Lesterville, SD, on May 29, 1918, to Rudolph and May Broel. Upon graduation from Lesterville High School in 1936, Squire was employed in various jobs throughout the area including at the Stuelpnagals Chicken Hatchery. On June 24, 1940, Squire married another Lesterville native Evelyn Hladky and they would eventually have three children: Larry Broel, Carolyn McDonald, and Jean Lehn. During World War II Squire served in the Army Air Corps and for most of his service was stationed in Mississippi.

Soon after his discharge and return to South Dakota, Squire and his family moved to Sturgis, SD, where he still lives today. It was in Sturgis, that

Squire became a fireman at the Fort Meade Veterans Hospital in 1951. He worked there until his retirement in 1978, and during that time he earned many awards, including the Veterans Hospital Civil Service Award for South Dakota in 1964.

After his retirement from Fort Meade, Squire continued to serve as a fireman for the Sturgis Volunteer Fire Department and in 1985 he was honored by the Governor of South Dakota for his 50 years of fire service with the proclamation of "Squire Broel Day" throughout the State. In 1994, Squire earned the South Dakota Outstanding Fire Service Award. During his career as a fireman Squire was also a member of the Black Hills Safety Council, the South Dakota Fire Chiefs Association, and the Keep South Dakota Green Association.

Now officially retired from the Sturgis Volunteer Fire Department, Squire remains active with numerous volunteer activities and in various civic organizations. He also enjoys hunting, watching baseball, traveling, and spending time with his five grandchildren and seven great-grandchildren.

It gives me great pleasure to commemorate the 90th birthday of Squire Broel and to wish him continued health and happiness in the years to come.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13303 OF MAY 22, 2003, WITH RESPECT TO THE STABILIZATION OF IRAQ—PM 50

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Reg-*

*ister* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication. This notice states that the national emergency declared in Executive Order 13303 of May 22, 2003, as modified in scope and relied upon for additional steps taken in Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007, is to continue in effect beyond May 22, 2008.

Obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, I have determined that it is necessary to continue the national emergency with respect to this threat and maintain in force the measures taken in response to this threat.

GEORGE W. BUSH.  
THE WHITE HOUSE, May 20, 2008.

#### MESSAGES FROM THE HOUSE

##### ENROLLED BILL SIGNED

At 5:41 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2419. An act to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. TESTER).

At 6:07 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 355. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message also announced that the House has passed the following bills, without amendment:

S. 3029. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

S. 3035. An act to temporarily extend the programs under the Higher Education Act of 1965.

#### MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 3036. A bill to direct the Administrator of the Environmental Protection Agency to

establish a program to decrease emissions of greenhouse gases, and for other purposes.

S. 3044. A bill to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6293. A communication from the Secretary of Agriculture, transmitting, pursuant to law, an annual report relative to the cattle and hog industries; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6294. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, notification of the Department's intent to close the Defense commissary stores at Darmstadt, Wuerzburg, and Hanau, Germany; to the Committee on Armed Services.

EC-6295. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a nomination for the position of Secretary, received on May 15, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC-6296. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels Participating in the Entry Level Rockfish Fishery in the Central Regulatory Area of the Gulf of Alaska" (RIN0648-XH37) received on May 15, 2008; to the Committee on Commerce, Science, and Transportation.

EC-6297. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer (NC to VA)" (RIN0648-XH32) received on May 15, 2008; to the Committee on Commerce, Science, and Transportation.

EC-6298. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area" (RIN0648-XH33) received on May 15, 2008; to the Committee on Commerce, Science, and Transportation.

EC-6299. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Wisconsin; Redesignation of Kewaunee County to Attainment for Ozone" (FRL No. 8568-2) received on May 20, 2008; to the Committee on Environment and Public Works.

EC-6300. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules and Alternative Monitoring Plan for Mandan Refinery; Delegation of Authority for New Source Perform-

ance Standards" (FRL No. 8570-2) received on May 20, 2008; to the Committee on Environment and Public Works.

EC-6301. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes; California; Ventura Ozone Nonattainment Area; Reclassification to Serious" (FRL No. 8568-3) received on May 20, 2008; to the Committee on Environment and Public Works.

EC-6302. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries" ((RIN2060-AO90)(FRL No. 8569-1)) received on May 20, 2008; to the Committee on Environment and Public Works.

EC-6303. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries" ((RIN2060-AO90)(FRL No. 8568-8)) received on May 20, 2008; to the Committee on Environment and Public Works.

EC-6304. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Update of Continuous Instrumental Test Methods: Technical Amendments" (FRL No. 8568-7) received on May 20, 2008; to the Committee on Environment and Public Works.

EC-6305. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Utah: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL No. 8569-9) received on May 20, 2008; to the Committee on Environment and Public Works.

EC-6306. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Partner's Distributive Share" ((RIN1545-BD70)(TD 9398)) received on May 20, 2008; to the Committee on Finance.

EC-6307. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates - June 2008" (Rev. Rul. 2008-28) received on May 20, 2008; to the Committee on Finance.

EC-6308. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance to Reduce Foreclosures of Mortgages Held by a REMIC" (Rev. Proc. 2008-28) received on May 20, 2008; to the Committee on Finance.

EC-6309. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report of the determination made by the Deputy Secretary of State that six countries are not cooperating fully with U.S. antiterrorism efforts; to the Committee on Foreign Relations.

EC-6310. A communication from the Director, Regulations Policy and Management

Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Soluble Fiber from Certain Foods and Risk of Coronary Heart Disease" (Docket No. FDA-2006-P-0405) received on May 15, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-6311. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Human Subject Protection; Foreign Clinical Studies Not Conducted Under an Investigational New Drug Application" (Docket No. 2004N-0018) received on May 15, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-6312. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Substances Prohibited From Use in Animal Food or Feed" ((RIN0910-AF46)(Docket No. 2002N-0273)) received on May 15, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-6313. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Designation of New Animal Drugs for Minor Uses or Minor Species" ((RIN0910-AF60)(Docket No. 2005N-0329)) received on May 15, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-6314. A communication from the Secretary of Transportation, transmitting, pursuant to law, an annual report relative to the number of cases arising under the No FEAR Act during fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-6315. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Inspector General's Semiannual Report for the period ending March 31, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-6316. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report relative to the Department of Agriculture's plan for a personnel management demonstration project; to the Committee on Homeland Security and Governmental Affairs.

EC-6317. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Representative Rate; Order of Release From Competitive Level; Assignment Rights" (RIN3206-AL19) received on May 20, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-6318. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Political Activity - Federal Employees Residing in Designated Localities" (RIN3206-AL32) received on May 14, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-6319. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Inspector General's Semiannual Report for the period ending March 31, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-6320. A communication from the Director, Office of Congressional and Legislative Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Gaming on Trust Lands Acquired After October 17, 1988" (RIN1076-AE81) received on May 20, 2008; to the Committee on Indian Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. BOXER, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2191. A bill to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes (Rept. No. 110-337).

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 550. A resolution expressing the sense of the Senate regarding provocative and dangerous statements made by the Government of the Russian Federation that undermine the territorial integrity of the Republic of Georgia.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BIDEN for the Committee on Foreign Relations.

\*Marcia Stephens Bloom Bernicat, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Nominee: Marcia Stephens Bloom Bernicat.

Post: Senegal.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: N/A.
2. Spouse: Olivier Bernicat: N/A.
3. Children and Spouses: Sunil Christopher Bernicat (minor); Sumit Nicolaus Bernicat (minor).
4. Parents: Both deceased.
5. Grandparents: All four deceased.
6. Brothers and Spouses: Rodney & Cindy Bloom.
7. Sisters and Spouses: Kathryn Bloom & Luther White, Jr.: N/A.

\*Marianne Matuzic Myles, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Nominee: Marianne M. Myles.

Post: Praia, Cape Verde.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: \$100.00, 11/7/06, Democratic Senatorial Campaign Committee; \$50.00, 2/4/04, Democratic National Committee Services Corp.; \$100.00, 5/3/06, Democrats.Org.
3. Children and Spouses: Lee-Ellen Myles: none.
4. Parents: J. Philip Matuzic (deceased), Eleanor Matuzic (deceased).

5. Grandparents: Louis Mancheff (deceased), Mary Mancheff (deceased), Joseph Matuzic (deceased), Anna Matuzic (deceased).

6. Brothers and Spouses: Philip J. Matuzic: none.

7. Sisters and Spouses: Nancy Edwards, John Edwards: none.

\*Linda Thomas-Greenfield, of Louisiana, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Liberia.

Nominee: Linda Thomas-Greenfield.

Post: Monrovia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Lafayette Greenfield: None.
3. Children and Spouses: Lindsay Greenfield: None.  
Lafayette Greenfield: None.
4. Parents' Names: Oliver Thomas, Jr.: None.  
Doretha Thomas: None.
5. Grandparents' Names: All deceased: Maggie and Buck Peterson, Elnora and Oliver Thomas.
6. Brothers and Spouses Names: Elvin Thomas (divorced): None.  
Ronald Thomas (Glenda): None.  
Oliver Thomas III (Renita): None.  
Cleveland (Deborah): None.
7. Sisters and Spouses Names: Patricia Noble (Bertel): None.  
Kathy Thomas-Grover (James): None.  
Maxine Caldwell (Lawrence): None.

\*Joseph Evan LeBaron, of Oregon, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Nominee: Joseph Evan LeBaron.

Post: Qatar.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none
2. Spouse: Elinor R. LeBaron, none.
3. Children and Spouses: Petra Drake LeBaron, none.
4. Parents: Carlos S. LeBaron, deceased; Truellen LeBaron McCracken, deceased.  
Grandparents: Edgar M. LeBaron, deceased; Zenobia H. LeBaron, deceased.
6. Brothers and Spouses: Charles S. LeBaron, deceased.
7. Sisters and Spouses: Joyce I. LeBaron, none; Veida Wissler, none; Steve Wissler (spouse), none.

4. (Step) Parents: Lawrence McCracken, none.

5. Grandparents (cont'd): Hyrum J. Davis, deceased, Berta B. Davis, deceased.

6. Brothers and Spouses (cont'd): Daniel McCracken, none. Cindy McCracken (spouse), none.

7. Sisters and Spouses (cont'd): Elma M. Witty, none; Ben Witty (spouse), none; Phyllis McCracken, none.

\*Stephen James Nolan, of Virginia, a Career Member of the Senior Foreign Service,

Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Nominee: Stephen J. Nolan.

Post: Gabarone, Botswana.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Judith F. Nolan: \$25.00, 2004, Kerry Campaign.
3. Children and Spouses:
4. Parents: Mary P. Nolan, none; Bernard Nolan (deceased).
5. Grandparents (all deceased).
6. Brothers and Spouses: Robert B. Nolan (brother) none; Nancy W. Nolan (brother's spouse) none.
7. Sisters and Spouses: Monica F. Kowalski (sister) none; Robert J. Kowalski (deceased), Bernadette Hoffman (sister) none; Joseph Hoffman (husband) none.

\*Donald E. Booth, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

Nominee: Donald E. Booth.

Post: Ambassador to Zambia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Anita S. Booth, none.
3. Children and Spouses: Alison L. Booth, none; Peter R. Booth, none; David I. Booth, none.
4. Parents: John E. Booth, deceased; Eileen R. Booth, deceased.
5. Grandparents: Ernest Ford, deceased; Lena Ford, deceased; Edward Booth, deceased.
6. Brothers and Spouses: John L. Booth (step-brother) none; Tibby Booth, none.
7. Sisters and Spouses: Camilla Noyes (step-sister) none; George Noyes, none.

\*Gillian Arlette Milovanovic, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

Nominee: Gillian Arlette Milovanovic.

POST: Ambassador to Mali.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Zlatibor Radmilo Milovanovic: None other than IRS form one dollar check off.
3. Children and Spouses: Alexandra Helene Milovanovic, none; Anna Michele Milovanovic, none.
4. Parents: Andre Pesche—deceased; Annette Roussel-Pesche—deceased.
5. Grandparents: Mary and Meyer Rosenson—deceased; Germaine and Robert Pesche—deceased.

6. Brothers and Spouses: No brothers.  
6. Sisters and Spouses: No sisters.

\*James B. Cunningham, of New York, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Nominee: James B. Cunningham.  
POST: Tel Aviv.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.
3. Children and Spouses: Emma, none; Abigail, none.
4. Parents: Blair—deceased; Julia—deceased.
5. Grandparents: Grandparents Knowles—deceased; Grandparents Cunningham—deceased.
6. Brothers and Spouses: Thomas, none; William—estranged, believe none.
7. Sisters and Spouses: Carol, none; Kathleen—deceased.

\*Donald Gene Teitelbaum, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

Nominee: Donald Gene Teitelbaum.  
POST: Ambassador.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Julianna Lindsey: none.
3. Children and Spouses: none.
4. Parents: Robert Teitelbaum, none; Fumie Teitelbaum, none.
5. Grandparents: Deceased.
6. Brothers and Spouses: Alex Teitelbaum, none; Cathy Teitelbaum, none.
7. Sisters and Spouses: Romie Heidt, none; Rick Heidt, none.

Robert Stephen Beecroft, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

Nominee: Robert Stephen Beecroft.  
Post: Ambassador to Jordan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Anne T. Beecroft, none.
3. Children: Blythe A. Beecroft, none; Robert Warren N. Beecroft, none; Sterling S. Beecroft, none; Grace A. Beecroft, none; Children's Spouses, N/A.
4. Parents: Robert L. Beecroft (Deceased); Emma L. Beecroft, none.
5. Grandparents: Irl R. Beecroft (Deceased); Ruth V. Beecroft (Deceased); John E. Warren (Deceased); Emma W. Warren (Deceased).
6. Brothers and Spouses: Warren E. Beecroft, none; Frances Beecroft (spouse), none.

Edward Regan Beecroft, none; JoAn Stopa-Beecroft (spouse), none.

Collin J. Beecroft, none; Melinda Beecroft (spouse), \$500, 3/31/07, Mitt Romney.

7. Sisters and Spouses: Robyn R. Ryskamp, none; Barry Ryskamp (spouse), none.

\*Richard E. Hoagland, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kazakhstan.

Nominee: Richard Eugene Hoagland.  
Post: Ambassador to Kazakhstan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: N/A.
3. Children and Spouses' Names: N/A.
4. Parents' Names: Robert Hoagland (deceased); Thelma Hoagland, none.
5. Grandparents' Names: Earl Hoagland (deceased); Nellie Hoagland (deceased); Charles Van Scoik (deceased); Faustina Van Scoik (deceased).
6. Brothers' and Spouses' Names: Donald Hoagland, none; Helen Hoagland, none; David Hoagland, none; Kathy Hoagland, none; Daniel Hoagland, none; Karen Hoagland, none.
7. Sisters' and Spouses' Names: Deborah Hoagland, none.

\*Peter William Bodde, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

Nominee: Peter W. Bodde.  
Post: Ambassador to Malawi.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: none.
3. Children's and Spouses' Names: none.
4. Parents' Names: Amb. William Bodde, Jr., \$1,000.00, 2007, Senator Hillary Clinton, Rep. Chris Van Hollen.
5. Grandparents' Names: deceased.
6. Brothers' and Spouses': none.
7. Sisters' and Spouses' Names: none.

\*Patricia McMahon Hawkins, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Togolese Republic.

Nominee: Patricia McMahon Hawkins.  
Post: Togo.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self: None.
2. Spouse: None.
3. Children and Spouses: Frederic Charles Game, None; and Jessica C. Hawkins, None.
4. Parents: Charles J. McMahon, Deceased; and Rosemary V. McMahon, Deceased.
5. Grandparents: George Graff, Deceased; Virginia M. Graff, Deceased; Charles J.

McMahon, Deceased; and Lillian Whiting, Deceased.

6. Brothers and Spouses: N/A.

7. Sisters and Spouses: Barbara Ellen McMahon, None.

\*Richard A. Boucher, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period.

\*William J. Burns, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period.

\*Anne Woods Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period.

\*C. David Welch, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period.

\*T. Vance McMahan, of Texas, to be Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

\*Janice L. Jacobs, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (Bureau of Consular Affairs).

\*T. Vance McMahan, of Texas, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations, during his tenure of service as Representative of the United States of America on the Economic and Social Council of the United Nations.

Mr. BIDEN. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Foreign Service nominations beginning with Craig Lewis Cloud and ending with Kimberly K. Ottwell, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Foreign Service nominations beginning with Carmine G. D'Aloisio and ending with Judy R. Reinke, which nominations were received by the Senate and appeared in the Congressional Record on April 23, 2008.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second times by unanimous consent, and referred as indicated:

By Mr. REID (for Mr. KENNEDY):

S. 3035. A bill to temporarily extend the programs under the Higher Education Act of 1965; considered and passed.

By Mrs. BOXER:

S. 3036. A bill to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes; read the first time.

By Mr. DODD (for himself, Mr. COCHRAN, Mrs. CLINTON, Mr. MENENDEZ, Mr. INOUE, Mr. KENNEDY, Mr. SMITH, Ms. MIKULSKI, Mrs. LINCOLN, Mr. CASEY, Mr. BAYH, Mr. ROCKEFELLER, and Mr. WHITEHOUSE):

S. 3037. A bill to amend the National and Community Service Act of 1990 to improve the educational awards provided for national service, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY:

S. 3038. A bill to amend part E of title IV of the Social Security Act to extend the adoption incentives program, to authorize States to establish a relative guardianship program, to promote the adoption of children with special needs, and for other purposes; to the Committee on Finance.

By Mr. WEBB (for himself and Mr. WARNER):

S. 3039. A bill to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Northern Neck National Heritage Area in Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. WHITEHOUSE, Mrs. CLINTON, and Mr. KERRY):

S. 3040. A bill to amend the Toxic Substances Control Act to reduce the exposure of children, workers, and consumers to toxic chemical substances; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself and Mr. HAGEL):

S. 3041. A bill to establish the Foreign Intelligence and Information Commission to assess needs and provide recommendations to improve foreign intelligence and information collection, analysis, and reporting and for other purposes; to the Select Committee on Intelligence.

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 3042. A bill to establish a coordinated avalanche protection program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. McCASKILL (for herself and Mr. HATCH):

S. 3043. A bill to improve Federal land management, resource conservation, environmental protection, and use of Federal real property, by requiring the Secretary of the Interior to develop a multipurpose cadastre of Federal and real property and identifying inaccurate, duplicate, and out-of-date Federal land inventories, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself, Mrs. BOXER, Mr. BROWN, Mr. CARDIN, Mr. CONRAD, Mr. DODD, Mr. DURBIN, Mr. JOHNSON, Mr. KENNEDY, Ms. KLOBUCHAR, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. McCASKILL, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. SCHUMER, Ms. STABENOW, and Mr. WHITEHOUSE):

S. 3044. A bill to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to

high energy prices, and for other purposes; read the first time.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. CORNYN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. McCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TESTER, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 571. A resolution recognizing the 100th birthday of Lyndon Baines Johnson, 36th President, designer of the Great Society, politician, educator, and civil rights enforcer; considered and agreed to.

### ADDITIONAL COSPONSORS

S. 34

At the request of Mr. ENZI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 34, a bill to promote simplification and fairness in the administration and collection of sales and use taxes.

S. 218

At the request of Ms. SNOWE, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 218, a bill to amend the Internal Revenue Code of 1986 to modify the income threshold used to calculate the refundable portion of the child tax credit.

S. 432

At the request of Mrs. LINCOLN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 432, a bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the Medicare program, and for other purposes.

S. 932

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 932, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 1164

At the request of Mr. CARDIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1164, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1169

At the request of Mr. FEINGOLD, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1169, a bill to ensure the provision of high quality health care coverage for uninsured individuals through State health care coverage pilot projects that expand coverage and access and improve quality and efficiency in the health care system.

S. 1175

At the request of Mr. DURBIN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1430

At the request of Mr. NELSON of Nebraska, his name was added as a cosponsor of S. 1430, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1942

At the request of Mr. HARKIN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1942, a bill to amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the renovation of schools.

S. 1954

At the request of Mr. BAUCUS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1954, a bill to amend title XVIII of the Social Security Act to improve access to pharmacies under part D.

S. 2123

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 2123, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 2368

At the request of Mr. PRYOR, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2368, a bill to provide immigration reform by securing America's borders, clarifying and enforcing existing laws, and enabling a practical employer verification program.

S. 2579

At the request of Mr. INOUE, the names of the Senator from Montana (Mr. TESTER), the Senator from Oregon (Mr. WYDEN), the Senator from Rhode Island (Mr. REED), the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 2579, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army in 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the colonial period to today.

S. 2595

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2595, a bill to create a national licensing system for residential mortgage loan originators, to develop minimum standards of conduct to be enforced by State regulators, and for other purposes.

S. 2731

At the request of Mr. BIDEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2731, a bill to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. 2736

At the request of Mr. KOHL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2736, a bill to amend section 202 of the Housing Act of 1959 to improve the program under such section for supportive housing for the elderly, and for other purposes.

S. 2759

At the request of Mr. DODD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2759, a bill to provide for Kindergarten Plus programs.

S. 2799

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2799, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 2817

At the request of Mr. SALAZAR, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2817, a bill to establish the National Park Centennial Fund, and for other purposes.

S. 2819

At the request of Mr. ROCKEFELLER, the name of the Senator from Nevada

(Mr. REID) was added as a cosponsor of S. 2819, a bill to preserve access to Medicaid and the State Children's Health Insurance Program during an economic downturn, and for other purposes.

S. 2874

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2874, a bill to amend titles 5, 10, 37, and 38, United States Code, to ensure the fair treatment of a member of the Armed Forces who is discharged from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early discharge of a member who is the only surviving child in a family in which the father or mother, or one or more siblings, served in the Armed Forces and, because of hazards incident to such service, was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently disabled, and for other purposes.

S. 2932

At the request of Mrs. MURRAY, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 2932, a bill to amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program to provide assistance for poison prevention, sustain the funding of poison centers, and enhance the public health of people of the United States.

S. 2959

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2959, a bill to amend the Help America Vote Act of 2002 to require States to provide for election day registration.

S. 2979

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2979, a bill to exempt the African National Congress from treatment as a terrorist organization, and for other purposes.

S. 3008

At the request of Mr. BOND, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3008, a bill to improve and enhance the mental health care benefits available to members of the Armed Forces and veterans, to enhance counseling and other benefits available to survivors of members of the Armed Forces and veterans, and for other purposes.

S. 3031

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 3031, a bill to amend the Clean Air Act to limit the use of ethanol to meet the renewable fuel standard, and for other purposes.

S. CON. RES. 82

At the request of Mrs. LINCOLN, the name of the Senator from Montana

(Mr. TESTER) was added as a cosponsor of S. Con. Res. 82, a concurrent resolution supporting the Local Radio Freedom Act.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. COCHRAN, Mrs. CLINTON, Mr. MENENDEZ, Mr. INOUE, Mr. KENNEDY, Mr. SMITH, Ms. MIKULSKI, Mrs. LINCOLN, Mr. CASEY, Mr. BAYH, Mr. ROCKEFELLER, and Mr. WHITEHOUSE):

S. 3037. A bill to amend the National and Community Service Act of 1990 to improve the educational awards provided for national service, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with Senator COCHRAN and others to introduce legislation that will build on one of the best service success stories of the last quarter century: AmeriCorps. Fifteen years ago, as he swore in the first class of AmeriCorps members, President Bill Clinton said, "When it is all said and done, it comes down to three simple questions: What is right? What is wrong? And what are we going to do about it?"

Since that time, more than a half-million AmeriCorps members have taken it upon themselves to try and answer those questions in communities across this country.

They have done so by serving in a variety of settings from senior centers and veterans' hospitals to schools and afterschool programs. They have helped clean up our neighborhoods and rebuilt our houses. These members have sacrificed their time and energy to meet the fundamental needs of our nation.

Last year alone, 75,000 AmeriCorps members gave back to our communities, serving in over 4,000 schools, faith-based and community organizations, and nonprofits across the country. They also brought reinforcements—recruiting another 1.7 million community volunteers to work alongside them. Because of AmeriCorps, our communities have been strengthened, and our democracy fortified.

Unfortunately, as the hours AmeriCorps members have contributed to our communities have increased, the Segal AmeriCorps Education Award created to help members pay for their college tuition has remained flat at \$4,725. Meanwhile, the average college tuition has skyrocketed. The education award previously paid for two years of college, but currently it does not even cover the cost of a single year. I am introducing the AmeriCorps: Together Improving Our Nation Act, ACTION, in part, to update the education award to keep pace with 15 years of tuition increases.

The ACTION Act will raise the education award to \$6,185 and increase the award annually to match the average tuition at a 4-year public university.

That figure, \$6,185 is the average cost of tuition at a four-year public university according to the College Board. The act will also make the education award tax exempt to ensure that students are able to use their entire award to advance their education.

In addition, to recognize service as a national priority, this legislation promotes the position of Executive Director of the Corporation for National and Community Service to Cabinet status and reestablishes the Corporation for National and Community Service's authority to partner with other Federal agencies. As partners of equal status, Federal Departments will be able to coordinate their priorities and have AmeriCorps members work to meet their needs.

For example, the Department of Education could use volunteers to help solve the "Dropout Crisis" and the Environmental Protection Agency could use volunteers to increase our energy efficiency.

As a former Peace Corps volunteer, I know that national service ought not to simply be virtuous, but rather, a resource with which we can carry out our most urgent national priorities, from tackling poverty to making our communities cleaner and more vibrant. We need to recognize service as a national priority, and with passage of the ACTION Act, we will.

By Mr. FEINGOLD (for himself and Mr. HAGEL):

S. 3041. A bill to establish the Foreign Intelligence and Information Commission to assess needs and provide recommendations to improve foreign intelligence and information collection, analysis, and reporting and for other purposes; to the Select Committee on Intelligence.

Mr. FEINGOLD. Mr. President, today I am introducing legislation with the senior Senator from Nebraska, Senator HAGEL, to establish an independent commission to address long-standing, systemic problems in the collection, reporting, and analysis of foreign intelligence as well as diplomatic reporting and open source information. First, as the DNI has testified, we continue to direct "disproportionate" resources toward current crises, rather than toward long-term strategic issues and emerging threats. Second, we don't have the geographic distribution of resources needed to anticipate threats around the world. The lack of "global reach" has also been acknowledged by the Intelligence Community leadership. And third, we lack a comprehensive strategic approach to the collection of information by the entire U.S. Government, including not only the Intelligence Community, but also State Department and other Government officers who are based in our embassies.

To put it simply, the Government does not have a process for asking the following questions: What do we need to know, not only today but in the future? Who is best suited to get that information and where do they need to be? Is our analysis up to the task? And

how do we allocate resources, across agencies, so that these requirements are met with adequate funding? These big strategic questions are critical to our national security, yet they don't get asked, much less answered. These problems extend well beyond the authorities of the DNI and the jurisdiction of any one congressional committee. That is why we need an independent commission to finally address them comprehensively and to make recommendations for the executive branch and for Congress.

There are concrete reasons why this is so important. Around the world, including in Africa, South and Southeast Asia, there are current and potential terrorist safe havens. There is also the potential for instability and the persistence of political, economic and social conditions that can result in a crisis that threatens our national security. Do we need more clandestine collectors in these parts of the world? Do we need more embassy political officers doing more diplomatic reporting? After all, information gleaned from conversations with government officials, civil society and tribal and religious leaders can be critical to understanding potential terrorist safe havens and can often be obtained more effectively than through the IC. What about other U.S. Government officials based overseas, such as FBI officers? What mix of these personnel is appropriate? What does a U.S. Embassy in one of these countries look like, from an interagency collection and reporting perspective? Are more consulates and out-of-embassy posts part of the solution? And how do we connect the requirements of our embassies overseas to Washington, where administration budget requests and congressional budgetary allocations and appropriations should reflect a broad, multi-year interagency collection strategy?

An independent commission will be able to answer these questions. It will be able to look at the Intelligence Community, the State Department, and other departments and agencies to ensure that strategic and budgetary planning is not only consistent with national requirements, but is part of a larger, interagency process. The commission will consider the role of the National Security Council and the OMB in this process. It will look at the problem from top to bottom, interviewing NSC officials in Washington and visiting country missions overseas. This would not be a confrontational or accusatory investigation. It is an inquiry intended to produce concrete recommendations to fix long-standing problems. Those recommendations will be of enormous benefit to whoever the next president is. It will help Congress as it conducts oversight and considers the role of the Intelligence Community, the DNI, the State Department, and other agencies in the context of broader interagency strategies.

This legislation has been endorsed by a broad range of people, including Zbigniew Brzezinski, Donald Gregg, Carl Ford, Larry Wilkerson, David

Kay, Gayle Smith and Rand Beers. I am pleased that the Intelligence Committee approved the legislation earlier this month as an amendment to the fiscal year 2009 intelligence authorization bill. I will continue working with Senator HAGEL to ensure that this important legislation is enacted.

Mr. HAGEL. Mr. President, the Feingold-Hagel bill establishes an independent Foreign Intelligence and Information Commission, appointed by Congress, to review strategies for collection, analysis, and reporting of intelligence and diplomatic information from our outposts around the world. The Commission would have a 2-year lifespan.

We must ensure that the United States is prepared to face the challenges of the 21st Century. Our intelligence agencies and diplomatic outposts must provide policymakers with information that helps anticipate threats before they loom large, and our efforts must not be focused solely on the "threat of the day."

As observers and veterans of the intelligence community—including the 9/11 Commission—have noted, the U.S. Government and intelligence community obviously have to focus on current threats, many times at the expense of having the "strategic depth" to analyze and anticipate potential threats and surprises lurking over the horizon. The focus mainly on current reporting has been cited within the Intelligence Community as inhibiting its ability to forecast significant longer term problems.

With the creation of the Director of National Intelligence, DNI, and the National Counterterrorism Center, NCTC, Congress helped move the Intelligence Community in the right direction, but we need strategic intelligence not just on terrorism, but many other threats that our intelligence agencies and policymakers must anticipate.

This bi-partisan Commission would enhance—not supplant—the Senate Select Committee on Intelligence's oversight of intelligence.

"Strategic depth" in collection and analysis is an issue that cuts across the oversight responsibilities of both the Senate's Intelligence and Foreign Relations Committees. This Commission would examine diplomatic as well as intelligence reporting, which would help provide an in-depth analysis of issues that are not entirely within the scope of responsibilities of the DNI. The Commission would be able to probe these areas in depth and would have two years to issue its final report.

We have seen how Commission reports can be useful tools to both Congress and the Executive branch to highlight needed reforms. For instance, the 2001 Carlucci Commission report on "State Department Reform" proved to be a tremendous resource for Secretary Colin Powell as he developed an action program to revitalize the State Department and make needed reforms. Secretary Powell studied the findings and recommendations of this and other panels. He met extensively with Carlucci and other members of various

commissions, and relied on their detailed insights in formulating his reform efforts.

The Feingold-Hagel legislation's commission report would help the next administration evaluate and improve the effectiveness of key instruments underlying our national power. The Commission would provide recommendations on how to improve collection strategy, analysis, interagency information sharing, and language training.

A bipartisan group of respected intelligence and national security experts have endorsed the Commission, including former National Security Advisor Zbigniew Brzezinski; Donald Gregg, former Ambassador and National Security Advisor to Vice President George H. W. Bush, and Larry Wilkerson, former Chief of Staff to Secretary Colin Powell. Earlier this month, in a bipartisan vote, the Senate Intelligence Committee endorsed the Feingold-Hagel legislation setting up this commission.

This Commission would help Congress and the Executive to better position our intelligence agencies and diplomats to provide the information the United States Government needs to anticipate future strategic challenges, and I urge my colleagues to support this measure.

By Mrs. MCCASKILL (for herself and Mr. HATCH):

S. 3043. A bill to improve Federal land management, resource conservation, environmental protection, and use of Federal real property, by requiring the Secretary of the Interior to develop a multipurpose cadastre of Federal and real property and identifying inaccurate, duplicate, and out-of-date Federal land inventories, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. MCCASKILL. Mr. President, have you ever flown over the heartland of the United States and wondered how the Midwest and West got its distinctive and remarkable checkerboard pattern?

The reason for that extraordinary system is a law enacted on this date in 1785. On May 20, 1785, Congress enacted a bill that laid the foundation for American land policy. The Land Ordinance of 1785 provided that from a point of beginning in East Liverpool, Ohio, the new Northwest Territory was to be systematically surveyed and the lands subdivided into settlements and townships. Of the thirty-six sections of 640 acres in each township, the sixteenth was reserved "for the maintenance of public schools." Congress began an extraordinary process of inventorying the lands to the west, providing for settlement and homesteads, surveying and subdividing the lands, and providing land for Revolutionary War soldiers, as payment in lieu of compensation to relieve the new Republic of its war debts to those who fought for our freedom.

But while these early Acts of Congress, beginning with the Land Ordinance of 1785, the Northwest Ordinance of 1787, through the Homestead Act of 1862 and the more recent Federal Land Policy and Management Act FLPMA in 1976, all contributed to the inventorying, surveying, preservation, disposal and settlement of lands of the West, to this day the United States does not have a current, accurate inventory of the lands the Federal government owns.

The fact is, the Federal Government does not know what it owns, where it owns it, what condition it is in, what its characteristics are, or what its designated use should be. This is the third consecutive Congress in which Congress's watchdog agency, the Government Accountability Office placed 'Managing Federal Real Property' in the High-Risk Series, a category describing those activities with the highest risk of waste, fraud or abuse.

The GAO, GAO-03-122, found over 30 Federal agencies control hundreds of thousands of real property assets worldwide, including facilities and land. However, the portfolio is not well managed, many assets are no longer consistent with agency mission or needs, and many assets are in an alarming state of disrepair. Also, GAO, GAO-T-RCED-95-117, told Congress, "The General Services Administration, GSA, publishes statistics on the amount of land managed by each federal agency. However, we found this information was not current or reliable."

To remedy the lack of a current accurate inventory of all Federal real property, and the duplication and inefficiency of the many property databases the government does maintain, I am today introducing the Federal Land Asset Inventory Reform, FLAIR, Act, along with my colleague Senator ORRIN HATCH of Utah. Our bill is a companion to H.R. 5532, introduced in the House on a bipartisan basis by Representative KIND of Wisconsin and Representative CANNON of Utah.

There is no reason for the Government to lack a current, accurate inventory of all the land it has been entrusted to manage for the citizens of the United States. With the technology available, it should not happen that then-Secretary of the Interior Gale Norton would testify before the House Interior Appropriations Subcommittee on March 2, 2005 that "The Department currently uses 26 different financial management systems and over 100 different property systems. Employees must enter procurement transactions multiple times in different systems so that the data are captured in real property inventories, financial systems, and acquisition systems. This fractured approach is both costly and burdensome to manage."

It is time the U.S. Government invested in a methodology and technology to identify and inventory its land holdings. Such a system can help enhance the Federal land management,

resource conservation, environmental protection, and use of Federal real property. We should not be creating multiple inventories when today's technology permits us to do it once and use it many times. Gathering information to solve national problems should not require an Act of Congress, particularly when a few keystrokes on a computer will do the job.

Although the Bush administration took a step toward solving this problem when President Bush issued Executive Order 13327 in 2004, the resulting GSA inventory is neither GIS-based nor includes public lands. Unfortunately, this means that more than 300 million acres are exempt from the inventory currently maintained by GSA.

Since 1980, the National Academy of Sciences has been calling for the development of a multipurpose cadastre, or land registry, in its report, "Need for a Multipurpose Cadastre." The report said, "There is a critical need for a better land-information system in the United States to improve land-conveyance procedures, furnish a basis for equitable taxation, and provide much-needed information for resource management and environmental planning." In 2007, the Academy renewed this effort and recommended the idea of the FLAIR Act, in its report, "National Land Parcel Data: A Vision for the Future."

This Federal effort will also help State and local agencies verify their ongoing efforts to identify what each level of government owns, and permit the fair, efficient and equitable taxation of private property. This will enable government at all levels to find missing lands through a gap analysis that identifies properties on which taxes are not being collected due to the inefficiencies in our systems. For example, when the State of Wyoming used a GIS to audit the mass appraisal process, it found that approximately 250,000 parcels were not on the tax rolls.

Over the past decade, nearly 30 Governors and State Legislatures have created State land inventories. Let me give you a few examples of what some States have found.

In California, an inventory discovered that in 1955, the State purchased a golf course in Oakland to make way for a highway. The road was never built, and the State still owns the land, unbeknownst to any State agency.

In South Carolina, a State commission found the University of South Carolina, a State university, still owned Wedge Plantation, a 1,500 acre tract valued at \$5 million, originally used for research of insect-borne diseases, but now leased to a half-dozen hunters who pay no rent.

While serving as Missouri State Auditor, my office issued a report noting that the Missouri Department of Transportation lacked accurate and reliable records of excess property and property being held for future projects. The best MoDOT could do was estimate

the amount and value of the land they held.

The FLAIR Act addresses the twin problems of a lack of a single, interoperable, current and accurate Federal land inventory, and the proliferation of inefficient, duplicative, costly, inaccurate and out-of-date inventories by authorizing the Department of the Interior to develop and manage a single multipurpose, uniform Federal GIS database to track and account for all Federal Real Property, as called for by GAO and recommended by the National Academy.

Waste and duplication can be avoided if the Government knew what inventories it had. The FLAIR Act also authorizes the Secretary of the Interior to conduct an "inventory of inventories" to identify all inventory databases, whether efficient or inefficient. The efficient databases will be merged into a single multipurpose cadastre while the inefficient databases are repealed, thus preventing waste and duplication from continuing. By integrating the efficient databases, redundancy can be identified and eliminated. Resources can be applied to gaps in data rather than duplicative data.

Once a multipurpose inventory is complete, the government can become a better real property asset manager, and a responsible steward of its land holdings. This will result in more efficient land management, again providing savings. That is what the FLAIR Act provides.

I urge my colleagues to join Senator HATCH and myself in enacting this good-government bill.

By Mr. REID (for himself, Mrs. BOXER, Mr. BROWN, Mr. CARDIN, Mr. CONRAD, Mr. DODD, Mr. DURBIN, Mr. JOHNSON, Mr. KENNEDY, Ms. KLOBUCHAR, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. MCCASKILL, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. SCHUMER, Ms. STABENOW, and Mr. WHITEHOUSE):

S. 3044. A bill to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3044

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Consumer-First Energy Act of 2008".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

**TITLE I—TAX PROVISIONS RELATED TO OIL AND GAS**

Sec. 101. Denial of deduction for major integrated oil companies for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 102. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.

Sec. 103. Windfall profits tax.

Sec. 104. Energy Independence and Security Trust Fund.

**TITLE II—PRICE GOUGING**

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Energy emergency and additional price gouging enforcement.

Sec. 204. Presidential declaration of energy emergency.

Sec. 205. Enforcement by the Federal Trade Commission.

Sec. 206. Enforcement by State attorneys general.

Sec. 207. Penalties.

Sec. 208. Effect on other laws.

**TITLE III—STRATEGIC PETROLEUM RESERVE**

Sec. 301. Suspension of petroleum acquisition for Strategic Petroleum Reserve.

**TITLE IV—NO OIL PRODUCING AND EXPORTING CARTELS**

Sec. 401. No Oil Producing and Exporting Cartels Act of 2008.

**TITLE V—MARKET SPECULATION**

Sec. 501. Speculative limits and transparency for off-shore oil trading.

Sec. 502. Margin level for crude oil.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) excessive prices for petroleum products have created, or imminently threaten to create, severe economic dislocations and hardships, including the loss of jobs, business failures, disruption of economic activity, curtailment of vital public services, and price increases throughout the economy;

(2) those hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy and economic crisis that is a threat to the public health, safety, and welfare of the United States;

(3) consumers, workers, small businesses, and large businesses of the United States are particularly vulnerable to those price increase due to the failure of the President to aggressively develop alternatives to petroleum and petroleum products and to promote efficiency and conservation;

(4) reliable and affordable supplies of crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel) are vital to the economic and national security of the United States given current energy infrastructure and technology;

(5) the price of crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel) have skyrocketed to record levels and are continuing to rise;

(6) since 2001, oil prices have increased from \$29 per barrel to levels near \$120 per barrel and gasoline prices have more than doubled from \$1.47 per gallon to more than \$3.50 per gallon;

(7) the record prices for crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel)—

(A) are hurting millions of consumers, workers, small businesses, and large busi-

nesses of the United States, and threaten long-term damage to the economy and security of the United States;

(B) are partially due to—

(i) the declining value of the dollar and a widespread lack of confidence in the management of economic and foreign policy by the President;

(ii) the accumulation of national debt and growing budget deficits under the failed economic policies of the President; and

(iii) high levels of military expenditures under the failed policies of the President in Iraq; and

(C) are no longer justified by traditional forces of supply and demand;

(8) rampant speculation in the markets for crude oil and products refined from crude oil has magnified the price increases and market volatility resulting from those underlying causes of price increases; and

(9) Congress must take urgent action to protect consumers, workers, and businesses of the United States from rampant speculation in the energy markets and the price increases resulting from the failed domestic and foreign policies of the President.

**TITLE I—TAX PROVISIONS RELATED TO OIL AND GAS**

**SEC. 101. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

(a) **IN GENERAL.**—Subparagraph (B) of section 199(c)(4) (relating to exceptions) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by inserting after clause (iii) the following new clause:

"(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B)."

(b) **PRIMARY PRODUCT.**—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

"For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 102. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.**

(a) **IN GENERAL.**—Subsections (a) and (b) of section 907 of the Internal Revenue Code of 1986 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

"(a) **REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.**—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the combined foreign oil and gas income for the taxable year,

"(2) multiplied by—

"(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

"(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken

and the denominator of which is the taxpayer's entire taxable income.

“(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

“(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term ‘combined foreign oil and gas income’ means, with respect to any taxable year, the sum of—

“(A) foreign oil and gas extraction income, and

“(B) foreign oil related income.

“(2) FOREIGN OIL AND GAS TAXES.—The term ‘foreign oil and gas taxes’ means, with respect to any taxable year, the sum of—

“(A) oil and gas extraction taxes, and

“(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.”.

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) of the Internal Revenue Code of 1986 (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

“(4) RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.—

“(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

“(i) first by the amount determined under subparagraph (B), and

“(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

“(B) REDUCTION FOR PRE-2008 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

“(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

“(ii) the excess of—

“(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2008, over

“(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Consumer-First Energy Act of 2008) for preceding taxable years beginning after December 31, 1982.

“(C) REDUCTION FOR POST-2008 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

“(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

“(ii) the excess of—

“(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2008, over

“(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

“(D) FOREIGN OIL AND GAS LOSS DEFINED.—

“(i) IN GENERAL.—For purposes of this paragraph, the term ‘foreign oil and gas loss’ means the amount by which—

“(I) the gross income for the taxable year from sources without the United States and

its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

“(II) the sum of the deductions properly apportioned or allocated thereto.

“(i) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

“(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

“(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

“(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

“(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(i)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Consumer-First Energy Act of 2008.”.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) of the Internal Revenue Code of 1986 (relating to carryback and carryover of disallowed credits) is amended—

(1) by striking “oil and gas extraction taxes” each place it appears and inserting “foreign oil and gas taxes”, and

(2) by adding at the end the following new paragraph:

“(4) TRANSITION RULES FOR PRE-2009 AND 2009 DISALLOWED CREDITS.—

“(A) PRE-2009 CREDITS.—In the case of any unused credit year beginning before January 1, 2009, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2008—

“(i) by substituting ‘oil and gas extraction taxes’ for ‘foreign oil and gas taxes’ each place it appears in paragraphs (1), (2), and (3), and

“(ii) by computing, for purposes of paragraph (2)(A), the limitation under subparagraph (A) for the year to which such taxes are carried by substituting ‘foreign oil and gas extraction income’ for ‘foreign oil and gas income’ in subsection (a).

“(B) 2009 CREDITS.—In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Consumer-First Energy Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.”.

(d) CONFORMING AMENDMENT.—Section 6501(i) of the Internal Revenue Code of 1986 is amended by striking “oil and gas extraction taxes” and inserting “foreign oil and gas taxes”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

#### SEC. 103. WINDFALL PROFITS TAX.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

#### “CHAPTER 56—WINDFALL PROFITS ON CRUDE OIL

“Sec. 5896. Imposition of tax.

“Sec. 5897. Windfall profit; qualified investment.

“Sec. 5898. Special rules and definitions.

#### “SEC. 5896. IMPOSITION OF TAX.

“(a) IN GENERAL.—In addition to any other tax imposed under this title, there is hereby imposed on any applicable taxpayer an excise tax in an amount equal to 25 percent of the excess of—

“(1) the windfall profit of such taxpayer, over

“(2) the excess of—

“(A) the amount of the qualified investments of such applicable taxpayer for such taxable year, over

“(B) the average of the qualified investment of such applicable taxpayer for taxable years beginning during the 2002–2006 taxable year period.

“(b) APPLICABLE TAXPAYER.—For purposes of this chapter, the term ‘applicable taxpayer’ means any major integrated oil company (as defined in section 167(h)(5)(B)).

#### “SEC. 5897. WINDFALL PROFIT; QUALIFIED INVESTMENT.

“(a) GENERAL RULE.—For purposes of this chapter, the term ‘windfall profit’ means the excess of the adjusted taxable income of the applicable taxpayer for the taxable year over the reasonably inflated average profit for such taxable year.

“(b) ADJUSTED TAXABLE INCOME.—For purposes of this chapter, with respect to any applicable taxpayer, the adjusted taxable income for any taxable year is equal to the taxable income for such taxable year (within the meaning of section 63 and determined without regard to this subsection)—

“(1) increased by any interest expense deduction, charitable contribution deduction, and any net operating loss deduction carried forward from any prior taxable year, and

“(2) reduced by any interest income, dividend income, and net operating losses to the extent such losses exceed taxable income for the taxable year.

In the case of any applicable taxpayer which is a foreign corporation, the adjusted taxable income shall be determined with respect to such income which is effectively connected with the conduct of a trade or business in the United States.

“(c) REASONABLY INFLATED AVERAGE PROFIT.—For purposes of this chapter, with respect to any applicable taxpayer, the reasonably inflated average profit for any taxable year is an amount equal to the average of the adjusted taxable income of such taxpayer for taxable years beginning during the 2002–2006 taxable year period (determined without regard to the taxable year with the highest adjusted taxable income in such period) plus 10 percent of such average.

“(d) QUALIFIED INVESTMENT.—For purposes of this chapter, the term ‘qualified investment’ means, with respect to any applicable taxpayer, means any amount paid or incurred with respect to—

“(1) any qualified facility described in paragraph (1), (2), (3), (4), (5), (6), (7), or (9) of section 45(d) (determined without regard to any placed in service date), or

“(2) any facility for the production renewable fuel or advanced biofuel (as defined in section 211(o) of the Clean Air Act 942 U.S.C. 7545).

#### “SEC. 5898. SPECIAL RULES AND DEFINITIONS.

“(a) WITHHOLDING AND DEPOSIT OF TAX.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896.

“(b) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information as the Secretary may by regulations prescribe.

“(c) RETURN OF WINDFALL PROFIT TAX.—The Secretary shall provide for the filing and

the time of such filing of the return of the tax imposed under section 5896.

“(d) **CRUDE OIL.**—The term ‘crude oil’ includes crude oil condensates and natural gasoline.

“(e) **BUSINESSES UNDER COMMON CONTROL.**—For purposes of this chapter, all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

“(f) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.”

(b) **CLERICAL AMENDMENT.**—The table of chapters for subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“CHAPTER 56. WINDFALL PROFIT ON CRUDE OIL.”

(c) **DEDUCTIBILITY OF WINDFALL PROFIT TAX.**—The first sentence of section 164(a) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

“(6) The windfall profit tax imposed by section 5896.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 104. ENERGY INDEPENDENCE AND SECURITY TRUST FUND.**

(a) **ESTABLISHMENT.**—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

“**SEC. 9511. ENERGY INDEPENDENCE AND SECURITY TRUST FUND.**

“(a) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as ‘Energy Independence and Security Trust Fund’ (referred to in this section as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

“(b) **TRANSFERS TO TRUST FUND.**—There is hereby appropriated to the Trust Fund an amount equivalent to the increase in the revenues received in the Treasury as the result of the amendments made by sections 101, 102, and 103 of the Consumer-First Energy Act of 2008.

“(c) **DISTRIBUTION OF AMOUNTS IN TRUST FUND.**—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for the purposes of reducing the dependence of the United States on foreign and unsustainable energy sources and reducing the risks of global warming through programs and measures that—

“(1) reduce the burdens on consumers of rising energy prices;

“(2) diversify and expand the use of secure, efficient, and environmentally-friendly energy supplies and technologies;

“(3) result in net reductions in emissions of greenhouse gases; and

“(4) prevent energy price gouging, profiteering, and market manipulation.”

(b) **CLERICAL AMENDMENT.**—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

“Sec. 9511. Energy Independence and Security Trust Fund.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

**TITLE II—PRICE GOUGING**

**SEC. 201. SHORT TITLE.**

This title may be cited as the ‘Petroleum Consumer Price Gouging Protection Act’.

**SEC. 202. DEFINITIONS.**

In this title:

(1) **AFFECTED AREA.**—The term ‘affected area’ means an area covered by a Presidential declaration of energy emergency.

(2) **SUPPLIER.**—The term ‘supplier’ means any person engaged in the trade or business of selling or reselling, at retail or wholesale, or distributing crude oil, gasoline, petroleum distillates, or biofuel.

(3) **PRICE GOUGING.**—The term ‘price gouging’ means the charging of an unconscionably excessive price by a supplier in an affected area.

(4) **UNCONSCIONABLY EXCESSIVE PRICE.**—The term ‘unconscionably excessive price’ means an average price charged during an energy emergency declared by the President in an area and for a product subject to the declaration, that—

(A)(i)(I) constitutes a gross disparity from the average price at which it was offered for sale in the usual course of the supplier’s business during the 30 days prior to the President’s declaration of an energy emergency; and

(II) grossly exceeds the prices at which the same or similar crude oil, gasoline, petroleum distillates, or biofuel was readily obtainable by purchasers from other suppliers in the same relevant geographic market within the affected area; or

(ii) represents an exercise of unfair leverage or unconscionable means on the part of the supplier, during a period of declared energy emergency; and

(B) is not attributable to increased wholesale or operational costs, including replacement costs, outside the control of the supplier, incurred in connection with the sale of crude oil, gasoline, petroleum distillates, or biofuel, and is not attributable to local, regional, national, or international market conditions.

(5) **COMMISSION.**—The term ‘Commission’ means the Federal Trade Commission.

**SEC. 203. ENERGY EMERGENCY AND ADDITIONAL PRICE GOUGING ENFORCEMENT.**

(a) **IN GENERAL.**—During any energy emergency declared by the President under section 204 of this title, it is unlawful for any supplier to sell, or offer to sell crude oil, gasoline, petroleum distillates, or biofuel subject to that declaration in, or for use in, the area to which that declaration applies at an unconscionably excessive price.

(b) **FACTORS CONSIDERED.**—In determining whether a violation of subsection (a) has occurred, there shall be taken into account, among other factors, whether—

(1) the price charged was a price that would reasonably exist in a competitive and freely functioning market; and

(2) the amount of gasoline, other petroleum distillates, or biofuel the seller produced, distributed, or sold during the period the Proclamation was in effect increased over the average amount during the preceding 30 days.

**SEC. 204. PRESIDENTIAL DECLARATION OF ENERGY EMERGENCY.**

(a) **IN GENERAL.**—If the President finds that the health, safety, welfare, or economic well-being of the citizens of the United States is at risk because of a shortage or imminent shortage of adequate supplies of crude oil, gasoline, petroleum distillates, or biofuel due to a disruption in the national distribution system for crude oil, gasoline, petroleum distillates, or biofuel (including such a shortage related to a major disaster (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency As-

sistance Act (42 U.S.C. 5122(2))), or significant pricing anomalies in national energy markets for crude oil, gasoline, petroleum distillates, or biofuel the President may declare that a Federal energy emergency exists.

(b) **SCOPE AND DURATION.**—The emergency declaration shall specify—

(1) the period, not to exceed 30 days, for which the declaration applies;

(2) the circumstance or condition necessitating the declaration; and

(3) the area or region to which it applies which may not be limited to a single State; and

(4) the product or products to which it applies.

(c) **EXTENSIONS.**—The President may—

(1) extend a declaration under subsection (a) for a period of not more than 30 days;

(2) extend such a declaration more than once; and

(3) discontinue such a declaration before its expiration.

**SEC. 205. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.**

(a) **ENFORCEMENT.**—This title shall be enforced by the Federal Trade Commission in the same manner, by the same means, and with the same jurisdiction as though all applicable terms of the Federal Trade Commission Act were incorporated into and made a part of this title. In enforcing section 203 of this title, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of crude oil, gasoline, petroleum distillates, and biofuel in excess of \$500,000,000 per year but shall not exclude enforcement actions against companies with total United States wholesale sales of \$500,000,000 or less per year.

(b) **VIOLATION IS TREATED AS UNFAIR OR DECEPTIVE ACT OR PRACTICE.**—The violation of any provision of this title shall be treated as an unfair or deceptive act or practice proscribed under a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(c) **COMMISSION ACTIONS.**—Following the declaration of an energy emergency by the President under section 204 of this title, the Commission shall—

(1) maintain within the Commission—

(A) a toll-free hotline that a consumer may call to report an incident of price gouging in the affected area; and

(B) a program to develop and distribute to the public informational materials to assist residents of the affected area in detecting, avoiding, and reporting price gouging;

(2) consult with the Attorney General, the United States Attorney for the districts in which a disaster occurred (if the declaration is related to a major disaster), and State and local law enforcement officials to determine whether any supplier in the affected area is charging or has charged an unconscionably excessive price for crude oil, gasoline, petroleum distillates, or biofuel in the affected area; and

(3) conduct investigations as appropriate to determine whether any supplier in the affected area has violated section 203 of this title, and upon such finding, take any action the Commission determines to be appropriate to remedy the violation.

**SEC. 206. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

(a) **IN GENERAL.**—A State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 203 of this title, or to impose the civil penalties authorized by section 207 for violations of section 203, whenever the attorney general of the State has reason to believe that the interests of the residents of

the State have been or are being threatened or adversely affected by a supplier engaged in the sale or resale, at retail or wholesale, or distribution of crude oil, gasoline, petroleum distillates, or biofuel in violation of section 203 of this title.

(b) NOTICE.—The State shall serve written notice to the Commission of any civil action under subsection (a) prior to initiating the action. The notice shall include a copy of the complaint to be filed to initiate the civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting the civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Commission may intervene in the civil action and, upon intervening—

(1) may be heard on all matters arising in such civil action; and

(2) may file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the Attorney General by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which—

(A) the defendant operates;

(B) the defendant was authorized to do business; or

(C) where the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action or an administrative action for violation of this title, a State attorney general, or official or agency of a State, may not bring an action under this section during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this title alleged in the Commission's civil or administrative action.

(g) NO PREEMPTION.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of that State.

#### SEC. 207. PENALTIES.

(a) CIVIL PENALTY.—

(1) IN GENERAL.—In addition to any penalty applicable under the Federal Trade Commission Act, any supplier—

(A) that violates section 203 of this title is punishable by a civil penalty of not more than \$1,000,000; and

(B) that violates section 203 of this title is punishable by a civil penalty of—

(i) not more than \$500,000, in the case of an independent small business marketer of gasoline (within the meaning of section 324(c) of the Clean Air Act (42 U.S.C. 7625(c))); and

(ii) not more than \$5,000,000 in the case of any other supplier.

(2) METHOD.—The penalties provided by paragraph (1) shall be obtained in the same manner as civil penalties imposed under sec-

tion 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the court shall take into consideration, among other factors, the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

(b) CRIMINAL PENALTY.—Violation of section 203 of this title is punishable by a fine of not more than \$5,000,000, imprisonment for not more than 5 years, or both.

#### SEC. 208. EFFECT ON OTHER LAWS.

(a) OTHER AUTHORITY OF THE COMMISSION.—Nothing in this title shall be construed to limit or affect in any way the Commission's authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) STATE LAW.—Nothing in this title preempts any State law.

### TITLE III—STRATEGIC PETROLEUM RESERVE

#### SEC. 301. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) RESUMPTION.—Not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is \$75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(c) EXISTING CONTRACTS.—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil for a period of not less than 1 year, in accordance with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.

### TITLE IV—NO OIL PRODUCING AND EXPORTING CARTELS

#### SEC. 401. NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2008.

(a) SHORT TITLE.—This section may be cited as the “No Oil Producing and Exporting Cartels Act of 2008” or “NOPEC”.

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

##### “SEC. 7A. OIL PRODUCING CARTELS.

“(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumen-

tality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

“(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

“(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

“(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

“(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

“(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

“(d) ENFORCEMENT.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.”

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking “or” after the semicolon;

(2) in paragraph (7), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(8) in which the action is brought under section 7A of the Sherman Act.”

### TITLE V—MARKET SPECULATION

#### SEC. 501. SPECULATIVE LIMITS AND TRANSPARENCY FOR OFF-SHORE OIL TRADING.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

“(e) FOREIGN BOARDS OF TRADE.—

“(1) IN GENERAL.—In the case of any foreign board of trade for which the Commission has granted or is considering an application to grant a board of trade located outside of the United States relief from the requirement of subsection (a) to become a designated contract market, derivatives transaction execution facility, or other registered entity, with respect to an energy commodity that is physically delivered in the United States, prior to continuing to or initially granting the relief, the Commission shall determine that the foreign board of trade—

“(A) applies comparable principles or requirements regarding the daily publication of trading information and position limits or accountability levels for speculators as apply to a designated contract market, derivatives transaction execution facility, or other registered entity trading energy commodities physically delivered in the United States; and

“(B) provides such information to the Commission regarding the extent of speculative and nonspeculative trading in the energy commodity that is comparable to the information the Commission determines necessary to publish a Commitment of Traders report for a designated contract market, derivatives transaction execution facility, or other registered entity trading energy commodities physically delivered in the United States.

“(2) EXISTING FOREIGN BOARDS OF TRADE.—During the period beginning 1 year after the

date of enactment of this subsection and ending 18 months after the date of enactment of this subsection, the Commission shall determine whether to continue to grant relief in accordance with paragraph (1) to any foreign board of trade for which the Commission granted relief prior to the date of enactment of this subsection.”

#### SEC. 502. MARGIN LEVEL FOR CRUDE OIL.

(a) IN GENERAL.—Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)) is amended by adding at the end the following:

“(G) MARGIN LEVEL FOR CRUDE OIL.—Not later than 90 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations to set a substantial increase in margin levels for crude oil traded on any trading facility or as part of any agreement, contract, or transaction covered by this Act in order to reduce excessive speculation and protect consumers.”

#### (b) STUDIES.—

(1) STUDY RELATING TO EFFECT OF CERTAIN REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Commodity Futures Trading Commission shall submit to the appropriate committees of Congress a report describing the effect of the amendment made by subsection (a) on any trading facilities and agreements, contracts, and transactions covered by the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(2) STUDY RELATING TO EFFECTS OF CHANGES IN MARGIN LEVELS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report describing the effect (including any effect relating to trade volume or volatility) of any change of a margin level that occurred during the 10-year period ending on the date of enactment of this Act.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 571—RECOGNIZING THE 100TH BIRTHDAY OF LYNDON BAINES JOHNSON, 36TH PRESIDENT, DESIGNER OF THE GREAT SOCIETY, POLITICIAN, EDUCATOR, AND CIVIL RIGHTS ENFORCER

Mr. REID (for himself, Mr. MCCONNELL, Mrs. HUTCHISON, Mr. CORNYN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of NE-

BRASKA, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TESTER, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

#### S. RES. 571

Whereas August 27, 2008, marks the 100th birthday of Lyndon Baines Johnson;

Whereas Lyndon B. Johnson was born in Stonewall, Texas, to Samuel Ealy Johnson, Jr., a Texas representative, and Rebekah Baines, on August 27, 1908;

Whereas upon graduation, Lyndon B. Johnson enrolled in Southwest Texas State Teachers' College, where he vigorously participated in debate, campus politics, and edited the school newspaper;

Whereas Lyndon B. Johnson had several teaching positions throughout Texas, including at the Welhausen School in La Salle County, at Pearsall High School, and as a public speaking teacher at Sam Houston High School in Houston;

Whereas Lyndon B. Johnson went to work as a congressional assistant at the age of 23;

Whereas Lyndon B. Johnson served the 10th Congressional District in the Texas House of Representatives from April 10, 1937, to January 3, 1949;

Whereas Lyndon B. Johnson became a commissioned officer in the Navy Reserve in December 1941;

Whereas, during World War II, Lyndon B. Johnson was recommended by Undersecretary of the Navy James Forrestal to President Franklin D. Roosevelt, who assigned Johnson to a 3-man survey team in the southwest Pacific;

Whereas Lyndon B. Johnson was conferred the Silver Star, which is the military's 3rd highest medal, by General Douglas MacArthur;

Whereas, in 1948, Lyndon B. Johnson was elected to the Senate at the age of 41;

Whereas, in 1951, Lyndon B. Johnson was elected Senate minority leader at the age of 44, and elected Senate majority leader at the age of 46, the youngest in United States history;

Whereas Lyndon B. Johnson was elected Vice President at the age of 52, becoming president of the Senate;

Whereas Lyndon B. Johnson's congressional career and his leadership spanned the stock market crash, the Great Depression, World War II, the nuclear age, the Cold War, the space age, and the civil rights movement, some of the most turbulent years in American history;

Whereas Vice President Lyndon B. Johnson was appointed as head of the President's Committee on Equal Employment Opportunities, through which he worked with African-Americans and other minorities;

Whereas an hour and 38 minutes after the assassination of President Kennedy, Lyndon B. Johnson was sworn in as President aboard Air Force One;

Whereas Lyndon B. Johnson was a bold leader and an idealist, who had the energy, determination, and leadership to turn those dreams into reality;

Whereas Lyndon B. Johnson was a “can-do” President because no matter how difficult and daunting the task at hand, he never rested until it was completed;

Whereas, in 1964, at the request of the Johnson Administration, Congress passed the landmark Civil Rights Act of 1964, which

banned de jure segregation in the Nation's schools and public places;

Whereas Congress passed by request of the Johnson Administration the Voting Rights Act of 1965, which outlawed obstructive provisions that were determined to be impractical and potentially biased against prospective voters;

Whereas, in January of 1965, the Johnson Administration introduced by request the legislation that encompassed the Great Society programs;

Whereas, in 1967, President Johnson nominated Thurgood Marshall as the 1st African-American to serve on the Supreme Court;

Whereas, during President Johnson's time in office, the National Aeronautics and Space Administration made spectacular steps forward in space exploration when 3 astronauts successfully orbited the moon in December 1968;

Whereas Lyndon B. Johnson died at 4:33 p.m. on January 22, 1973, at his ranch in Johnson City, Texas, at the age of 64;

Whereas Lyndon B. Johnson was posthumously awarded the Presidential Medal of Freedom in 1980; and

Whereas Lyndon B. Johnson is honored, venerated, and revered for his drive to establish equality for all Americans, illustrated in the momentous legislation passed during his Administration: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors Lyndon B. Johnson for his fortitude in bringing about the passage of the historic Civil Rights Act of 1964 and Voting Rights Act of 1965;

(2) extols the contributions of Lyndon B. Johnson to the United States;

(3) commends Lyndon B. Johnson for establishing the Medicare Act of 1965 that has helped millions of Americans; and

(4) recognizes the 100th birthday of Lyndon Baines Johnson, the 36th President, designer of the Great Society, politician, educator, and civil rights enforcer.

### AMENDMENTS SUBMITTED AND PROPOSED

SA 4789. Mr. REID proposed an amendment to House amendment numbered 2 to the Senate amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

SA 4790. Mr. REID proposed an amendment to amendment SA 4789 proposed by Mr. REID to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, *supra*.

SA 4791. Mr. KERRY submitted an amendment intended to be proposed by him to the amendment of the House numbered 1 to the amendment of the Senate to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4792. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4793. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4794. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4795. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4796. Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4797. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4798. Mr. REID (for Mr. SCHUMER (for himself and Mr. MCCAIN proposed an amendment to the bill S. 431, to require convicted sex offenders to register online identifiers, and for other purposes.

SA 4799. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table.

SA 4800. Mr. WARNER (for himself, Mr. WEBB, Mr. HAGEL, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4801. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4802. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, *supra*; which was ordered to lie on the table.

SA 4803. Mr. REID proposed an amendment to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, *supra*.

SA 4804. Mr. REID proposed an amendment to amendment SA 4803 proposed by Mr. REID to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, *supra*.

#### TEXT OF AMENDMENTS

**SA 4789.** Mr. REID proposed an amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; as follows:

(The amendment will be printed in a future edition of the RECORD.)

**SA 4790.** Mr. REID proposed an amendment to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; as follows:

(The amendment will be printed as a future edition of the RECORD.)

**SA 4791.** Mr. KERRY submitted an amendment intended to be proposed by him to the amendment of the House numbered 1 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, line 23, insert after "agreements" the following: "Provided further,

That of the funds appropriated under this heading, \$2,000,000 shall be made available as a contribution for the witness and victims support, protection, and participation program within the United Nations Assistance to the Khmer Rouge Trials Trust Fund".

**SA 4792.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 8021.

**SA 4793.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### DIVISION —IMMIGRATION ENFORCEMENT

##### SEC. 1. SHORT TITLE.

This division may be cited as the "Secure America Through Verification and Enforcement Act of 2007" or as the "SAVE Act of 2007".

#### TITLE I—SECURING AMERICA'S INTERNATIONAL BORDERS

##### Subtitle A—Manpower, Technology, and Infrastructure Improvements

##### SEC. 101. MANPOWER.

(a) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3734) is amended to read as follows: "**SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.**

"(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty Border Patrol agents within the Department of Homeland Security (above the number of positions for which funds were appropriated for the preceding fiscal year), by—

- "(1) 2,500 in fiscal year 2008;
- "(2) 2,000 in fiscal year 2009;
- "(3) 1,500 in fiscal year 2010;
- "(4) 1,000 in fiscal year 2011; and
- "(5) 1,000 in fiscal year 2012.

"(b) ALLOCATIONS.—Of the Border Patrol agents hired under subsection (a), 80 percent shall be deployed along the southern border of the United States and 20 percent shall be deployed along the northern border of the United States.

"(c) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated for each of fiscal years 2008 through 2012 to carry out this section."

##### (b) INVESTIGATIVE PERSONNEL.—

(1) ADDITIONAL INVESTIGATIVE PERSONNEL FOR ALIEN SMUGGLING.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by paragraph (1), during each of the fiscal years 2008 through 2012, the Secretary shall, subject to the availability of appropriations, increase by not less than 350 the number of positions

for personnel within the Department assigned to specifically investigate alien smuggling.

(2) ADDITIONAL FUNDS AND PERSONNEL FOR THE TUNNEL TASK FORCE.—Subject to appropriations, the fiscal year 2008 budget of the Tunnel Task Force, a joint force comprised of Immigration and Customs Enforcement (ICE), Customs and Border Patrol (CBP) and Drug Enforcement Administration (DEA) personnel tasked to pinpoint tunnels that are utilized by drug lords and "coyotes" to smuggle narcotics, illegal aliens, and weapons of mass destruction, shall be increased by 50 percent above the fiscal year 2007 budget. Such increase shall be used to increase personnel, improve communication and coordination between participant agencies, upgrade technology, and offer cash rewards and appropriate security to individuals who provide the Tunnel Task Force with accurate information on existing tunnels that breach the international borders of the United States.

(3) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2012 to carry out this section.

(c) RECRUITMENT OF FORMER MEMBERS OF THE ARMED FORCES AND MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES.—

(1) REQUIREMENT FOR PROGRAM.—The Secretary, in conjunction with the Secretary of Defense, shall establish a program to actively recruit covered members (a member of a reserve component of the Armed Forces) or former members of the Armed Forces and National Guard to serve in United States Customs and Border Protection.

(2) REPORT ON RECRUITMENT INCENTIVES.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Secretary of Defense shall jointly submit to the "appropriate" committees of Congress a report that shall include an assessment of the desirability and feasibility of offering an incentive to a covered member or former member of the Armed Forces for the purpose of encouraging such member to serve in United States Customs and Border Patrol and Immigration and Customs Enforcement—

(A) the Secretary must provide a description of various monetary and non-monetary incentives considered for purposes of the report; and

(B) the Secretary must provide an assessment of the desirability and feasibility of utilizing any such incentive.

(3) RECOMMENDATIONS FOR RECRUITMENT INCENTIVES.—

(A) MAXIMUM STUDENT LOAN REPAYMENTS FOR UNITED STATES BORDER PATROL AGENTS WITH A TWO YEAR COMMITMENT.—Section 5379(b) of title 5, United States Code, is amended by adding at the end the following:

"(4) In the case of an employee (otherwise eligible for benefits under this section) who is serving as a full-time active-duty United States Border Patrol agent within the Department of Homeland Security—

"(A) paragraph (2)(A) shall be applied by substituting '\$20,000' for '\$10,000'; and

"(B) paragraph (2)(B) shall be applied by substituting '\$80,000' for '\$60,000'."

(B) RECRUITMENT AND RELOCATION BONUSES AND RETENTION ALLOWANCES FOR PERSONNEL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall ensure that the authority to pay recruitment and relocation bonuses under section 5753 of title 5, United States Code, the authority to pay retention bonuses under section 5754 of such title, and any other similar authorities available under any other provision of law, rule, or regulation, are exercised to the fullest extent allowable in

order to encourage service in the Department of Homeland Security.

(4) DEFINITION.—The term “appropriate committees of Congress” means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security and Governmental Affairs of the Senate.

#### SEC. 102. TECHNOLOGY.

(a) EQUIPMENT SHARING BETWEEN DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT OF DEFENSE.—The Secretaries of these two departments shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act (and then annually from that point), the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the potential risks to citizens of the United States and key foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (a) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(c) SECURE COMMUNICATION.—The secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations; and

(3) between all appropriate law enforcement agencies of the Department and State, local, and tribal law enforcement agencies.

(d) OTHER TECHNOLOGY UPGRADES.—The Secretary shall purchase and implement new technology to secure the borders, including, but not limited to drones, infrared cameras, sensors, mobile lighting units, radar and infrared heat.

(e) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2012 to carry out this section.

#### SEC. 103. INFRASTRUCTURE.

(a) INFRASTRUCTURE IMPROVEMENTS.—Subject to the availability of appropriations, the Secretary shall construct or purchase—

(1) office facilities to accommodate additional border patrol manpower;

(2) sport utility vehicles for officers;

(3) all weather roads for better vehicle access and performance on remote and rugged terrain (road construction should be done in consultation with the owner of the land and take into account any environmental or other land-use issues that are relevant);

(4) additional fencing (and aesthetic fencing in business districts) in urban areas of the border; and

(5) vehicle barriers, to support, not replace, manpower, in rural and remote areas of the border necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2012 to carry out this section.

#### SEC. 104. AERIAL VEHICLES AND SURVEILLANCE SYSTEMS.

(a) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning on the date on which the report is submitted under section 102(b), the Secretary shall conduct a pilot program to test unmanned aerial vehicles for border surveillance along the international border between Canada and the United States.

(b) UNMANNED AERIAL VEHICLES AND ASSOCIATED INFRASTRUCTURE.—The Secretary shall acquire and maintain unmanned aerial vehicles and related equipment for use to patrol the international borders of the United States, including equipment such as—

(1) additional sensors;

(2) satellite command and control; and

(3) other necessary equipment for operational support.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2008 and 2009 such sums as may be necessary to carry out subsection (b).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) are authorized to remain available until expended.

(d) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated to carry out this subsection.

(e) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, drones,

cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a “virtual fence” along such international borders to provide a barrier to illegal immigration.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, that—

(A) the technologies utilized in the Integrated and Automated Surveillance Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras in a manner where a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras is able to be viewed at multiple designated communications centers;

(E) a standard process is used to collect and record, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the program to streamline site selection and site validation processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible;

(J) standards are developed under the program to identify and deploy the use of non-permanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions; and

(K) Border Patrol agents respond to each reported intrusion that appears to involve aliens or smugglers.

(3) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE COMPTROLLER GENERAL OF THE UNITED STATES.—

(i) IN GENERAL.—The Comptroller General of the United States shall review each new contract related to the Program and should report to Congress regarding contracts with a value of more than \$5,000,000 in a timely manner, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules.

(ii) REPORTS.—The Comptroller General of the United States shall report the findings of each review carried out under clause (i) to the Secretary in a timely manner.

(4) AUTHORIZATION OF APPROPRIATIONS.—The necessary funds are authorized to be appropriated to carry out this subsection.

#### Subtitle B—Strategies and Progress Reports for Securing America's Borders

#### SEC. 111. NATIONAL STRATEGY TO SECURE THE BORDERS.

(a) REQUIREMENT FOR NATIONAL STRATEGY.—The Secretary, in consultation with

the heads of other appropriate Federal agencies, shall develop a national strategy to secure the borders that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States by December 31, 2010.

(b) **CONTENT.**—The national strategy to secure the borders shall include the following:

(1) An assessment of the threats posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(2) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(3) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(4) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(5) A description of the border security roles and missions of Federal Government, State government, local government, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(6) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, private property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, refugees and other vulnerable populations, as well as the effects on Americans living in the border region and local, State, and Federal law enforcement officers working in the border region.

(7) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(8) A description of ways to ensure that the free flow of lawful travel and commerce is not unreasonably diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(9) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(10) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such strategy.

(11) A schedule for the implementation of the security measures described in said strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry

out such measures, and a description of how such resources should be allocated.

(c) **CONSULTATION.**—In developing the national strategy for border security, the Secretary shall consult with representatives of—

(1) State, local, and tribal governmental authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, non-governmental organizations, and affected communities that have expertise in areas related to border security.

(d) **COORDINATION.**—The national strategy for border security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) **SUBMISSION TO CONGRESS.**—

(1) **STRATEGY.**—Not later than December 31, 2008, the Secretary shall submit to Congress the national strategy for border security.

(2) **UPDATES.**—The Secretary shall submit to Congress any update of such strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) **IMMEDIATE ACTION.**—Nothing in this section may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

#### **SEC. 112. ACCOUNTABLE FINANCING OF A SECURE BORDER INITIATIVE.**

(a) **COMPTROLLER GENERAL OF THE UNITED STATES.**—

(1) **ACTION.**—If the Comptroller General of the United States becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under the Secure Border Initiative, the Comptroller General of the United States shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to Congress and to the Secretary of Homeland Security, or to another appropriate official of the Department of Homeland Security, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative or make said contract null and void.

(2) **REPORT.**—Upon the completion of each review described in paragraph (1), the Comptroller General of the United States shall submit to Congress and to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high-risk business practices.

(b) **REPORTS BY THE SECRETARY.**—

(1) **IN GENERAL.**—Not later than 30 days after the receipt of each report required under subsection (a)(2), the Secretary shall submit a report to the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives and the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate, that describes the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) **CONTRACTS WITH FOREIGN COMPANIES.**—Not later than 60 days after the initiation of

each contract action with a company whose headquarters are not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(c) **REPORTS ON UNITED STATES PORTS.**—Not later than 60 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Secretary of Homeland Security shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

#### **Subtitle C—Rapid Response Measures**

#### **SEC. 121. DEPLOYMENT OF BORDER PATROL AGENTS.**

(a) **EMERGENCY DEPLOYMENT OF BORDER PATROL AGENTS.**—

(1) **IN GENERAL.**—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional agents of the Border Patrol (referred to in this subtitle as “agents”) from the Secretary, the Secretary, subject to paragraphs (2) and (3), may provide the State with not more than 1,000 additional agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border into the United States at any location other than an authorized port of entry.

(2) **CONSULTATION.**—Upon receiving a request for agents under paragraph (1), the Secretary, after consultation with the President, shall grant such request to the extent that providing such agents will not significantly impair the Department’s ability to provide border security for any other State.

(3) **COLLECTIVE BARGAINING.**—Emergency deployments under this subsection shall be made in accordance with all applicable collective bargaining agreements and obligations under current law.

(b) **FLEXIBLE DEPLOYMENT OF BORDER PATROL AGENTS.**—The Secretary shall ensure that agents are not precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances if the temporary use of fixed deployment positions is necessary.

#### **SEC. 122. BORDER PATROL MAJOR ASSETS.**

(a) **CONTROL OF DEPARTMENT OF HOMELAND SECURITY ASSETS.**—The Department of Homeland Security shall have exclusive administrative and operational control over all the assets utilized in carrying out its mission, including aircraft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

(b) **HELICOPTERS AND POWER BOATS.**—

(1) **HELICOPTERS.**—The Secretary shall increase the number of helicopters under the control of the Border Patrol and Immigration and Customs Enforcement (ICE). The Secretary shall ensure that appropriate types and quantities of helicopters are procured for the various missions being performed.

(2) **POWER BOATS.**—The Secretary shall increase the number of power boats under the control of the Border Patrol. The Secretary shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(3) **USE AND TRAINING.**—The Secretary shall—

(A) establish an overall policy on how the helicopters and power boats procured under this subsection will be used; and

(B) implement training programs for the agents who use such assets, including safe operating procedures and rescue operations.

(c) **MOTOR VEHICLES.**—

(1) **QUANTITY.**—The Secretary shall establish a fleet of motor vehicles appropriate for use by the Border Patrol that will permit a ratio of not less than 1 police-type vehicle for every 4 agents with safety glass and other protections. The Secretary shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the Border Patrol.

(2) **FEATURES.**—All motor vehicles purchased for the Border Patrol shall—

(A) be appropriate for the mission of the Border Patrol; and

(B) have a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

**SEC. 123. ELECTRONIC EQUIPMENT.**

(a) **PORTABLE COMPUTERS.**—The Secretary shall ensure that each police-type motor vehicle in the fleet of the Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the Border Patrol.

(b) **RADIO EQUIPMENT.**—The Secretary shall augment the existing radio communications system so that all law enforcement personnel, including Immigration and Customs Enforcement, working in each area where Border Patrol operations are conducted have clear and encrypted 2-way radio communication capabilities at all times. Each portable communications device shall be equipped with a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

(c) **HANDHELD GLOBAL POSITIONING SYSTEM DEVICES.**—The Secretary shall ensure that Border Patrol agents are issued a state-of-the-art handheld global positioning system device for navigational purposes.

(d) **NIGHT VISION EQUIPMENT.**—The Secretary shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

**SEC. 124. PERSONAL EQUIPMENT.**

(a) **BODY ARMOR.**—The Secretary shall ensure that every agent on duty is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Enough body armor must be purchased to cover every agent in the field.

(b) **WEAPONS.**—The Secretary shall ensure that agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. The Secretary shall ensure that the policies of the Department authorize all agents to carry weapons that are suited to the potential threats that they face, and that all agents receive appropriate training in the use of such weapons.

(c) **UNIFORMS.**—The Secretary shall ensure that all agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as such items become worn or unserviceable or no longer fit properly.

**SEC. 125. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2008 through 2012 to carry out this subtitle.

**Subtitle D—Border Infrastructure and Technology Modernization**

**SEC. 131. DEFINITIONS.**

In this subtitle:

(1) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of United States Customs and Border Protection.

(2) **NORTHERN BORDER.**—The term “northern border” means the international border between the United States and Canada.

(3) **SOUTHERN BORDER.**—The term “southern border” means the international border between the United States and Mexico.

**SEC. 132. EXPANSION OF COMMERCE SECURITY PROGRAMS.**

(a) **CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the programs of the Customs-Trade Partnership Against Terrorism established pursuant to section 211 of the SAFE Port Act (6 U.S.C. 961), including adding additional personnel for such programs, along the northern border and southern border, including the following programs:

(A) The Business Anti-Smuggling Coalition.

(B) The Carrier Initiative Program.

(C) The Americas Counter Smuggling Initiative.

(D) The Container Security Initiative established pursuant to section 205 of the SAFE Port Act (6 U.S.C. 945).

(E) The Free and Secure Trade Initiative.

(F) Other industry partnership programs administered by the Commissioner.

(b) **DEMONSTRATION PROGRAM.**—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

**Subtitle E—Other Border Security Initiatives**  
**SEC. 141. ALIEN SMUGGLING AND TERRORISM PREVENTION.**

(a) **CHECKS AGAINST TERRORIST WATCHLIST.**—The Department of Homeland Security shall check against all available terrorist watchlists those alien smugglers and smuggled individuals who are interdicted at the land, air, and sea borders of the United States.

(b) **STRENGTHENING PROSECUTION AND PUNISHMENT OF ALIEN SMUGGLERS.**—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) by amending the subsection heading to read as follows: “SMUGGLING OF UNLAWFUL AND TERRORIST ALIENS.—”;

(2) by redesignating clause (iv) of paragraph (1)(B) as clause (vii);

(3) in paragraph (1), by striking “(1)(A)” and all that follows through clause (iii) of subparagraph (B) and inserting the following:

“(1)(A) Whoever, knowing or in reckless disregard of the fact that an individual is an alien who lacks lawful authority to come to, enter, or reside in the United States, knowingly—

“(i) brings that individual to the United States in any manner whatsoever regardless of any future official action which may be taken with respect to such alien;

“(ii) recruits, encourages, or induces that individual to come to, enter, or reside in the United States;

“(iii) transports or moves that individual in the United States, in furtherance of their unlawful presence; or

“(iv) harbors, conceals, or shields from detection the individual in any place in the United States, including any building or any means of transportation, or attempts or con-

spires to do so, shall be punished as provided in subparagraph (C).

“(B) Whoever, knowing that an individual is an alien, brings that individual to the United States in any manner whatsoever at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien, or attempts or conspires to do so, shall be punished as provided in subparagraph (C).

“(C) A violator of this paragraph shall, for each alien in respect to whom such a violation occurs—

“(i) unless the offense is otherwise described in another clause of this subparagraph, be fined under title 18, United States Code or imprisoned not more than 5 years, or both;

“(ii) if the offense involved the transit of the defendant’s spouse, child, sibling, parent, grandparent, or niece or nephew, and the offense is not described in any of clauses (iii) through (vii), be fined under title 18, United States Code or imprisoned not more than 1 year, or both;

“(iii) if the offense is a violation of paragraphs (1)(A)(ii), (iii), or (iv), or paragraph (1)(B), and was committed for the purpose of profit, commercial advantage, or private financial gain, be fined under title 18, United States Code or imprisoned not more than 10 years, or both;

“(iv) if the offense is a violation of paragraph (1)(A)(i) and was committed for the purpose of profit, commercial advantage, or private financial gain, or if the offense was committed with the intent or reason to believe that the individual unlawfully brought into the United States will commit an offense against the United States or any State that is punishable by imprisonment for more than 1 year, be fined under title 18, United States Code, and imprisoned, in the case of a first or second violation, not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years;

“(v) if the offense results in serious bodily injury (as defined in section 1365 of title 18, United States Code) or places in jeopardy the life of any person, be fined under title 18, United States Code or imprisoned not more than 20 years, or both;

“(vi) if the offense involved an individual who the defendant knew was engaged in or intended to engage in terrorist activity (as defined in section 212(a)(3)(B)), be fined under title 18, United States Code or imprisoned not more than 30 years, or both; and”;

(4) in the clause (vii) so redesignated by paragraph (2) of this subsection (which now becomes clause (vii) of the new subparagraph (C))—

(A) by striking “in the case” and all that follows through “(v) resulting” and inserting “if the offense results”; and

(B) by inserting “and if the offense involves kidnapping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined in section 2241 without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill, be fined under such title or imprisoned for any term of years or life, or both” after “or both”; and

(5) by striking existing subparagraph (C) of paragraph (1) (without affecting the new subparagraph (C) added by the amendments made by this Act) and all that follows through paragraph (2) and inserting the following:

“(2)(A) There is extraterritorial jurisdiction over the offenses described in paragraph (1).

“(B) In a prosecution for a violation of, or an attempt or conspiracy to violate subsection (a)(1)(A)(i), (a)(1)(A)(ii), or (a)(1)(B), that occurs on the high seas, no defense based on necessity can be raised unless the defendant—

“(i) as soon as practicable, reported to the Coast Guard the circumstances of the necessity, and if a rescue is claimed, the name, description, registry number, and location of the vessel engaging in the rescue; and

“(ii) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement set forth in clause (i) of this subparagraph is satisfied by notifying the Coast Guard as soon as practicable after delivering the alien to emergency medical or law enforcement personnel ashore.

“(C) It is a defense to a violation of, or an attempt or conspiracy to violate, clause (iii) or (iv) of subsection (a)(1)(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officer of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

“(D) For purposes of this paragraph and paragraph (1)—

“(i) the term ‘United States’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States; and

“(ii) the term ‘lawful authority’ means permission, authorization, or waiver that is expressly provided for in the immigration laws of the United States or the regulations prescribed under those laws and does not include any such authority secured by fraud or otherwise obtained in violation of law or authority that has been sought but not approved.”

(c) MARITIME LAW ENFORCEMENT.—

(1) PENALTIES.—Subsection (b) of section 2237 of title 18, United States Code, is amended to read as follows:

“(b)(1) Whoever intentionally violates this section shall, unless the offense is described in paragraph (2), be fined under this title or imprisoned for not more than 5 years, or both.

“(2) If the offense—

“(A) is committed in the course of a violation of section 274 of the Immigration and Nationality Act (alien smuggling); chapter 77 (peonage, slavery, and trafficking in persons), section 111 (shipping), 111A (interference with vessels), 113 (stolen property), or 117 (transportation for illegal sexual activity) of this title; chapter 705 (maritime drug law enforcement) of title 46, or title II of the Act of June 15, 1917 (Chapter 30; 40 Stat. 220), the offender shall be fined under this title or imprisoned for not more than 10 years, or both;

“(B) results in serious bodily injury (as defined in section 1365 of this title) or transportation under inhumane conditions, the offender shall be fined under this title, imprisoned not more than 15 years, or both; or

“(C) results in death or involves kidnapping, an attempt to kidnap, the conduct re-

quired for aggravated sexual abuse (as defined in section 2241 without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill, be fined under such title or imprisoned for any term of years or life, or both.”

(2) LIMITATION ON NECESSITY DEFENSE.—Section 2237(c) of title 18, United States Code, is amended—

(A) by inserting “(1)” after “(c)”; and

(B) by adding at the end the following:

“(2) In a prosecution for a violation of this section, no defense based on necessity can be raised unless the defendant—

“(A) as soon as practicable upon reaching shore, delivered the person with respect to which the necessity arose to emergency medical or law enforcement personnel;

“(B) as soon as practicable, reported to the Coast Guard the circumstances of the necessity resulting giving rise to the defense; and

“(C) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien, as that term is defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(3)), into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement of subparagraph (B) is satisfied by notifying the Coast Guard as soon as practicable after delivering that person to emergency medical or law enforcement personnel ashore.”

(3) DEFINITION.—Section 2237(e) of title 18, United States Code, is amended—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following:

“(5) the term ‘transportation under inhumane conditions’ means the transportation of persons in an engine compartment, storage compartment, or other confined space, transportation at an excessive speed, transportation of a number of persons in excess of the rated capacity of the means of transportation, or intentionally grounding a vessel in which persons are being transported.”

(d) AMENDMENT TO THE SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of alien smuggling offenses and criminal failure to heave to or obstruction of boarding.

(2) CONSIDERATIONS.—In carrying out this subsection, the Sentencing Commission, shall—

(A) consider providing sentencing enhancements or stiffening existing enhancements for those convicted of offenses described in paragraph (1) of this subsection that—

(i) involve a pattern of continued and flagrant violations;

(ii) are part of an ongoing commercial organization or enterprise;

(iii) involve aliens who were transported in groups of 10 or more;

(iv) involve the transportation or abandonment of aliens in a manner that endangered their lives; or

(v) involve the facilitation of terrorist activity; and

(B) consider cross-references to the guidelines for Criminal Sexual Abuse and Attempted Murder.

(3) EXPEDITED PROCEDURES.—The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though

the authority under that Act had not expired.

**SEC. 142. BORDER SECURITY ON CERTAIN FEDERAL LAND.**

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term “protected land” means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

(1) units of the National Park System;

(2) National Forest System land;

(3) land under the jurisdiction of the United States Fish and Wildlife Service and Bureau of Land Management; and

(4) other relevant land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture.

(c) ADDITIONAL UNIFORMED LAW ENFORCEMENT OFFICERS AND SPECIAL AGENTS OF THE DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Secretary of the Interior for employment of uniformed law enforcement officers and special agents, in addition to the number of such officers and agents employed immediately before the enactment of this Act, such sums as may be necessary for—

(1) 22 such officers of the United States Fish and Wildlife Service, including—

(A) 4 for California;

(B) 9 for Arizona;

(C) 2 for New Mexico; and

(D) 7 for Texas;

(2) 2 such agents of the United States Fish and Wildlife Service, for Texas;

(3) 22 such officers of the National Park Service, including—

(A) 13 for Arizona; and

(B) 9 for Texas;

(4) 2 such agents of the National Park Service, for Texas;

(5) 19 such officers of the Bureau of Land Management, including—

(A) 5 for California;

(B) 4 for Arizona;

(C) 4 for New Mexico; and

(D) 6 for Texas;

(6) 2 such agents of the Bureau of Land Management, including—

(A) 1 for California;

(B) 2 for Arizona; and

(C) 1 for New Mexico; and

(7) one such agent of the Bureau of Indian Affairs, for Texas.

(d) ADDITIONAL SPECIAL ASSISTANT UNITED STATES ATTORNEY.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to increase by 1 the number of special assistant United States attorneys in the district of Arizona dedicated to prosecution of cases generated by the Secretary of Interior, in addition to the number of such attorneys appointed immediately before the enactment of this Act.

**Subtitle F—Border Law Enforcement**

**SEC. 151. SHORT TITLE.**

This Act may be cited as the “Border Law Enforcement Act”.

**SEC. 152. FINDINGS.**

The Congress finds as follows:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation’s borders and prevent the flow of unauthorized aliens and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed \$89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region.

#### SEC. 153. BORDER RELIEF GRANT PROGRAM.

(a) IN GENERAL.—From amounts made available under section 154, the Secretary of Homeland Security may make grants to—

(1) sheriffs' offices of counties any part of which is within 25 miles of the southern border of the United States; and

(2) police departments serving a city, town, or other political subdivision in a county any part of which is within 25 miles of the southern border of the United States (including tribal police departments serving a community any part of which is within 25 miles of such border).

#### (b) USE OF FUNDS.—

(1) IN GENERAL.—Grant funds received under subsection (a) may be used for the following:

(A) To conduct law enforcement operations in order to enforce criminal laws, prevent and punish criminal activity, and protect the lives, property, and security of the people within the jurisdiction of the grant recipient.

(B) To transfer aliens detained or in the custody of the grant recipient who are not lawfully present in the United States to appropriate Federal law enforcement officials.

(C) To enforce State and Federal laws relating to controlled substance trafficking and enforce other State and Federal criminal laws.

(2) PAYMENT OF COSTS.—Use of funds under paragraph (1) shall include payment for costs of—

(A) hiring, equipping, training, and otherwise controlling the operations and deployment of, law enforcement officials engaged in duties described in paragraph (1), as well as the costs of paying overtime to such officials; and

(B) detaining, housing, and transporting aliens who are not lawfully present in the United States, and who are taken into custody by the grant recipient, until the aliens are transferred to appropriate Federal law enforcement officials.

(3) DETENTION FACILITIES.—In accordance with paragraph (2)(B), grant funds received under subsection (a) may be used for the construction, maintenance, and operation of detention facilities to detain aliens who are unlawfully present in the United States, except that not more than 20 percent of such funds may be used for the construction or renovation of detention or similar facilities.

#### (c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary of Homeland Security at such time, in such manner, and accompanied by such information as the Secretary of Homeland Security may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary of Homeland Security determines to be essential to ensure compliance with the requirements of this section.

#### SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Homeland Security to carry out this Act \$200,000,000 for fiscal year 2008 and each succeeding fiscal year.

#### SEC. 155. REGULATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue regulations to carry out this Act.

### TITLE II—ENDING UNLAWFUL EMPLOYMENT

#### Subtitle A—Employee Verification

#### SEC. 201. MANDATORY EMPLOYMENT AUTHORIZATION VERIFICATION.

(a) MAKING BASIC PILOT PROGRAM PERMANENT.—Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding before the period at the end of the last sentence the following “, except that the basic pilot program described in section 403(a) shall be a permanent program”.

#### (b) MANDATORY USE OF E-VERIFY SYSTEM.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), every person or other entity that hires one or more individuals for employment in the United States shall verify through the E-Verify program, established as the basic pilot program by section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1324a note), that each such individual is authorized to work in the United States. The Secretary of Homeland Security shall ensure that verification by means of a toll-free telephone line is an available option in complying with the preceding sentence.

(2) SELECT ENTITIES REQUIRED TO USE E-VERIFY PROGRAM IMMEDIATELY.—The following entities must satisfy the requirement

in paragraph (1) by not later than one year after the date of the enactment of this Act:

(A) FEDERAL AGENCIES.—Each department and agency of the Federal Government.

(B) FEDERAL CONTRACTORS.—A contractor that—

(i) has entered into a contract with the Federal Government to which section 2(b)(1) of the Service Contract Act of 1965 (41 U.S.C. 351(b)(1)) applies, and any subcontractor under such contract; or

(ii) has entered into a contract exempted from the application of such Act by section 6 of such Act (41 U.S.C. 356), and any subcontractor under such contract.

(C) LARGE EMPLOYERS.—An employer that employs more than 250 individuals in the United States.

#### (3) PHASING-IN FOR OTHER EMPLOYERS.—

(A) 2 YEARS FOR EMPLOYERS OF 100 OR MORE.—Entities that employ 100 or more individuals in the United States must satisfy the requirement in paragraph (1) by not later than two years after the date of the enactment of this Act.

(B) 3 YEARS FOR EMPLOYERS WITH 30 OR MORE EMPLOYEES.—All entities that employ 30 or more individuals in the United States must satisfy the requirement in paragraph (1) by not later than three years after the date of the enactment of this Act.

(C) 4 YEARS FOR ALL EMPLOYERS.—All entities that employ one or more individuals in the United States must satisfy the requirement in paragraph (1) by not later than four years after the date of the enactment of this Act.

(4) VERIFYING EMPLOYMENT AUTHORIZATION OF CURRENT EMPLOYEES.—Every person or other entity that employs one or more persons in the United States shall verify through the E-Verify program by not later than four years after the date of the enactment of this Act that each employee is authorized to work in the United States.

(5) DEFENSE.—An employer who has complied with the requirements in paragraphs (1) and (4) shall not be liable for hiring an unauthorized alien, if—

(A) such hiring occurred due to an error in the E-Verify program that was unknown to the employer at the time of such hiring; and

(B) the employer terminates the employment of the alien upon being informed of the error.

(6) SANCTIONS FOR NONCOMPLIANCE.—The failure of an employer to comply with the requirements in paragraphs (1) or (4) shall—

(A) be treated as a violation of section 274A(a)(1)(B) with respect to each offense; and

(B) create a rebuttable presumption that the employer has violated section 274A(a)(1)(A).

(7) VOLUNTARY PARTICIPATION OF EMPLOYERS NOT IMMEDIATELY SUBJECT TO REQUIREMENT.—Nothing in this subsection shall be construed as preventing a person or other entity that is not immediately subject to the requirement of paragraph (1) pursuant to paragraph (2) or (3) from voluntarily using the E-Verify program to verify the employment authorization of new hires or current employees.

(8) STATE INTERFERENCE.—No State may prohibit a person or other entity from using the E-verify program to verify the employment authorization of new hires or current employees.

#### SEC. 202. MANDATORY NOTIFICATION OF SSN MISMATCHES AND MULTIPLE USES.

(a) NOTIFICATION OF MISMATCHED NAME AND SOCIAL SECURITY NUMBER.—The Commissioner of Social Security shall notify on an annual basis each United States employer with one or more employees whose social security account number does not match the

employees name or date of birth in the Commissioners records. Such notification shall instruct employers to notify listed employees that they have 10 business days to correct the mismatch with the Social Security Administration or the employer will be required to terminate their employment. The notification also shall inform employers that they may not terminate listed employees prior to the close of the 10-day period.

(b) NOTIFICATION OF MULTIPLE USES OF INDIVIDUAL SOCIAL SECURITY NUMBERS.—Prior to crediting any individual with concurrent earnings from more than one employer, the Commissioner of Social Security shall notify the individual that earnings from two or more employers are being reported under the individual's social security account number. Such notice shall include, at a minimum, the name and location of each employer and shall direct the individual to contact the Social Security Administration to submit proof that the individual is the person to whom the social security account number was issued and, if applicable, to submit, either in person or via electronic transmission, a pay stub or other documentation showing that such individual is employed by both or all employers reporting earnings to that social security account number.

(c) INFORMATION SHARING WITH THE DEPARTMENT OF HOMELAND SECURITY.—

(1) Not later than 180 days following the date of enactment of this act, the Commissioner of Social Security shall promulgate regulations in accord with section 1306, title 42 (42 U.S.C. 1306), to require that information regarding all unresolved mismatch notifications and regarding all multiple use notifications that lead to the identification of an unauthorized user of a social security ac-

count number be shared with the Secretary of the Department of Homeland Security on a timely basis.

(2) Information to be shared with the Secretary shall include, at a minimum, the name and mailing address of all employees who are the subject of an unresolved mismatch notification or who are unauthorized users of another individual's social security account number.

**SEC. 203. ESTABLISHMENT OF ELECTRONIC BIRTH AND DEATH REGISTRATION SYSTEMS.**

(a) In consultation with the Secretary of Health and Human Services and the Commissioner of Social Security, the Secretary shall take the following actions:

(1) Work with the States to establish a common data set and common data exchange protocol for electronic birth registration systems and death registration systems.

(2) Coordinate requirements for such systems to align with a national model.

(3) Ensure that fraud prevention is built into the design of electronic vital registration systems in the collection of vital event data, the issuance of birth certificates, and the exchange of data among government agencies.

(4) Ensure that electronic systems for issuing birth certificates, in the form of printed abstracts of birth records or digitized images, employ a common format of the certified copy, so that those requiring such documents can quickly confirm their validity.

(5) Establish uniform field requirements for State birth registries.

(6) Not later than 1 year after the date of the enactment of this Act, establish a process with the Department of Defense that will result in the sharing of data, with the States

and the Social Security Administration, regarding deaths of United States military personnel and the birth and death of their dependents.

(7) Not later than 1 year after the date of the enactment of this Act, establish a process with the Department of State to improve registration, notification, and the sharing of data with the States and the Social Security Administration, regarding births and deaths of United States citizens abroad.

(8) Not later than 3 years after the date of establishment of databases provided for under this section, require States to record and retain electronic records of pertinent identification information collected from requestors who are not the registrants.

(9) Not later than 6 months after the date of the enactment of this Act, submit to Congress a report on whether there is a need for Federal laws to address penalties for fraud and misuse of vital records and whether violations are sufficiently enforced.

**SEC. 204. PENALTY FOR FAILURE TO FILE CORRECT INFORMATION RETURNS.**

Section 6721 of the Internal Revenue Code of 1986 (26 U.S.C. 6721) is amended by adding at the end the following:

“(f) The Secretary shall assess the maximum allowable penalties on 100 percent of the employers designated in any tax year by the Social Security Administration as the most egregious noncompliant employers.

“(g) Notwithstanding any other provision in this section, in the case of a failure described in subsection (a)(2) with respect to any person employing an alien not authorized to be so employed, the penalty under this section shall be determined in accordance with the following table:

	“In the case of—	Not less than—	Not more than—
The first offense .....	\$2,500 .....		\$5,000
The second offense .....	\$7,500 .....		\$10,000
The third offense .....	\$25,000 .....		\$40,000.”.

**SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be required to carry out this subtitle.

**Subtitle B—Nondeductibility of Wages Paid to Unauthorized Aliens**

**SEC. 211. CLARIFICATION THAT WAGES PAID TO UNAUTHORIZED ALIENS MAY NOT BE DEDUCTED FROM GROSS INCOME.**

(a) IN GENERAL.—Subsection (c) of section 162 of the Internal Revenue Code of 1986 (relating to illegal bribes, kickbacks, and other payments) is amended by adding at the end the following new paragraph:

“(4) WAGES PAID TO OR ON BEHALF OF UNAUTHORIZED ALIENS.—

“(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any wage paid to or on behalf of an unauthorized alien, as defined under section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

“(B) WAGES.—For the purposes of this paragraph, the term ‘wages’ means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash.

“(C) SAFE HARBOR.—If a person or other entity is participating in the basic pilot program described in section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an employee, subparagraph (A) shall not apply with respect to wages paid to such employee.”.

(b) 6-YEAR LIMITATION ON ASSESSMENT AND COLLECTION.—Subsection (c) of section 6501 of such Code (relating to exceptions) is amended by adding at the end the following new paragraph:

“(11) DEDUCTION CLAIMED FOR WAGES PAID TO UNAUTHORIZED ALIENS.—In the case of a return of tax on which a deduction is shown in violation of section 162(c)(4), any tax under chapter 1 may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.”.

(c) USE OF DOCUMENTATION FOR ENFORCEMENT PURPOSES.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subparagraph (b)(5), by inserting “, section 162(c)(4) of the Internal Revenue Code of 1986,” after “enforcement of this Act”;

(2) in subparagraph (d)(2)(F), by inserting “, section 162(c)(4) of the Internal Revenue Code of 1986,” after “enforcement of this Act”; and

(3) in subparagraph (d)(2)(G), by inserting “section 162(c)(4) of the Internal Revenue Code of 1986 or” after “or enforcement of”.

(d) AVAILABILITY OF INFORMATION.—The Commissioner of Social Security and the Secretary of the Department of Homeland Security shall make available to the Commissioner of Internal Revenue any information related to the investigation and enforcement of section 162(c)(4) of the Internal Revenue Code of 1986, including any no-match letter and any information in the earnings suspense file.

(e) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2007.

**TITLE III—ENHANCING AND FULLY UTILIZING CURRENT METHODS OF INTERIOR ENFORCEMENT**

**SEC. 301. INCREASE INVESTIGATIVE EFFORTS.**

(a) FEDERAL AGENTS.—An increase of personnel and resources will be needed to successfully enforce U.S. immigration laws and punish those who violate them. To this end, sufficient funds are authorized to be appropriated to employ 1,150 additional Immigration and Customs Enforcement Agents.

(b) CRIMINAL ALIEN PROGRAM (CAP).—An additional 140 CAP officers are authorized to identify and remove criminal aliens encountered in Federal, State, and local detention facilities.

(c) STATE AND LOCAL LAW ENFORCEMENT SUPPORT.—The Secretary of Homeland Security shall take necessary steps to allow for the training of a minimum of 250 State and local law enforcement officers in Federal immigration law enforcement procedure. This would be an expansion of an already active and successful program.

**SEC. 302. INCREASED OVERSIGHT OF AGENTS.**

To ensure the ability of Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) to enforce integrity and ethical behavior throughout their expanded ranks, an increase of 5 in the number of Special Agents in the Office of Professional Responsibility.

**SEC. 303. REWARDS PROGRAM.**

(a) REWARDS PROGRAM.—Section 274 (8) U.S.C. 1324) is amended by adding at the end the following:

“(e) REWARDS PROGRAM.—

“(1) IN GENERAL.—There is established in the Department of Homeland Security a program for the payment of rewards to carry out the purposes of this section.

“(2) PURPOSE.—The rewards program shall be designed to assist in the elimination of commercial operations to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully and to assist in the investigation, prosecution, or disruption of a commercial alien smuggling operation.

“(3) ADMINISTRATION.—The rewards program shall be administered by the Secretary of Homeland Security, in consultation, as appropriate, with the Attorney General and the Secretary of State.

“(4) REWARDS AUTHORIZED.—In the sole discretion of the Secretary of Homeland Security, such Secretary, in consultation, as appropriate, with the Attorney General and the Secretary of State, may pay a reward to any individual who furnishes information or testimony leading to—

“(A) the arrest or conviction of any individual conspiring or attempting to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully or to commit an act of commercial alien smuggling involving the transportation of aliens;

“(B) the arrest or conviction of any individual committing such an act;

“(C) the arrest or conviction of any individual aiding or abetting the commission of such an act;

“(D) the prevention, frustration, or favorable resolution of such an act, including the dismantling of an operation to produce or sell fraudulent documents to be used for entering or remaining in the United States, or commercial alien smuggling operations, in whole or in significant part; or

“(E) the identification or location of an individual who holds a key leadership position in an operation to produce or sell fraudulent documents to be used for entering or remaining in the United States unlawfully or a commercial alien smuggling operation involving the transportation of aliens.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection. Amounts appropriated under this paragraph shall remain available until expended.

“(6) INELIGIBILITY.—An officer or employee of any Federal, State, local, or foreign government who, while in performance of his or her official duties, furnishes information described in paragraph (4) shall not be eligible for a reward under this subsection for such furnishing.

“(7) PROTECTION MEASURES.—If the Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that an individual who furnishes information or testimony described in paragraph (4), or any spouse, child, parent, son, or daughter of such an individual, must be protected, such official may take such lawful action as the official considers necessary to effect such protection.

“(8) LIMITATIONS AND CERTIFICATION.—

“(A) MAXIMUM AMOUNT.—No reward under this subsection may exceed \$100,000.

“(B) APPROVAL.—Any reward under this subsection exceeding \$50,000 shall be personally approved by the Secretary of Homeland Security.

“(C) CERTIFICATION FOR PAYMENT.—Any reward granted under this subsection shall be

certified for payment by the Secretary of Homeland Security.

“(9) PUBLICITY.—The Department of Homeland Security shall be responsible for developing and implementing an advertising strategy to make known the rewards described within this section in order to solicit informants.”.

**SEC. 304. INCREASED DETENTION FACILITIES FOR ALIENS APPREHENDED FOR ILLEGAL ENTRY.**

(a) IN GENERAL.—The Secretary of Homeland Security shall make arrangements for the availability of 8,000 additional beds for detaining aliens taken into custody by immigration officials.

(b) IMPLEMENTATION.—Efforts shall be made to—

(1) contract private facilities whenever possible to promote efficient use and to limit the Federal Government’s maintenance of and liability for additional infrastructure;

(2) utilize State and local facilities for the provision of additional beds; and

(3) utilize BRAC facilities or active duty facilities.

(c) CONSTRUCTION.—The Department of Homeland Security shall construct facilities as necessary to meet the remainder of the 8,000 new beds to be provided.

(d) FAMILY DETENTION FACILITY.—To further meet the special needs of detained families, the Department of Homeland Security shall retain or construct a family detention facility, similar to the T. Don Hutto Family Residential Facility, offering no less than 500 beds.

(e) RESPONSIBILITIES.—The Secretary of Homeland Security shall be responsible for providing humane conditions, health care and nutrition, psychological services, and education for minors.

(f) AUTHORIZATION.—All funds necessary to accomplish the directives within this section are authorized to be appropriated.

**SEC. 305. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Based on the recommendations made by the 2007 Judicial Conference and the statistical data provided by the 2006 Federal Court Management Statistics (issued by the Administrative Office of the United States Courts), the Congress finds the following:

(1) Federal courts along the southwest border of the United States have a greater percentage of their criminal caseload affected by immigration cases than other Federal courts.

(2) The percentage of criminal immigration cases in most southwest border district courts totals more than 49 percent of the total criminal caseloads of those districts.

(3) The current number of judges authorized for those courts is inadequate to handle the current caseload.

(4) Such an increase in the caseload of criminal immigration filings requires a corresponding increase in the number of Federal judgeships.

(5) The 2007 Judicial Conference recommended the addition of judgeships to meet this growing burden.

(6) The Congress should authorize the additional district court judges necessary to carry out the 2007 recommendations of the Judicial Conference for district courts in which the criminal immigration filings represented more than 49 percent of all criminal filings for the 12-month period ending September 30, 2006.

(b) PURPOSE.—The purpose of this Act is to increase the number of Federal judgeships, in accordance with the recommendations of the 2007 Judicial Conference, in district courts that have an extraordinarily high criminal immigration caseload.

**SEC. 306. ADDITIONAL DISTRICT COURT JUDGESHIPS.**

(a) PERMANENT JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 4 additional district judges for the district of Arizona;

(B) 5 additional district judges for the southern district of California;

(C) 1 additional district judge for the district of New Mexico;

(D) 2 additional district judges for the southern district of Texas; and

(E) 1 additional district judge for the western district of Texas.

(2) CONFORMING AMENDMENTS.—In order that the table contained in section 133(a) of title 28, United States Code, reflect the number of additional judges authorized under paragraph (1), such table is amended—

(A) in the item relating to Arizona, by striking “12” and inserting “16”;

(B) in the item relating to California, by striking “13” and inserting “18”;

(C) in the item relating to New Mexico, by striking “6” and inserting “7”;

(D) in the item relating to Texas—

(i) by striking “19” and inserting “21”;

(ii) by striking “13” and inserting “14”.

(b) TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the district of Arizona; and

(B) 1 additional district judge for the district of New Mexico.

(2) VACANCY NOT FILLED.—For each of the judicial districts named in this subsection, the first vacancy arising on the district court 10 years or more after a judge is first confirmed to fill the temporary district judgeship created in that district by this subsection shall not be filled.

**SEC. 307. MEDIA CAMPAIGN.**

(a) IN GENERAL.—The Secretary of Labor and the Secretary of Homeland Security shall develop strategies to inform the public of changes in immigration policies created by provisions in this legislation.

(b) NOTIFICATION OF CHANGES TO EMPLOYMENT VERIFICATION PROCESS.—The Secretary of Labor shall employ, at his or her discretion, a combination of print, television, internet, and radio media to notify employers of changes to the employment verification process. These multilingual media campaigns should be targeted toward non-citizen communities and those most likely to employ non-citizens. Announcements should encourage compliance with new legislation and should explain penalties for noncompliance with provisions within this Act.

(c) MULTILINGUAL MEDIA CAMPAIGN.—The Secretary of Homeland Security shall also develop a multilingual media campaign explaining the extent of this legislation, the timelines therein, and the penalties for noncompliance with this Act. Announcements should be targeted toward undocumented aliens and should emphasize—

(1) provisions in this Act that enhance border security and interior enforcement;

(2) the benefits of voluntary removal of undocumented aliens;

(3) punishment for apprehension and forced removal of undocumented aliens; and

(4) legal methods of reentering the United States, including temporary work visas.

(d) COOPERATION WITH OTHER GOVERNMENTS.—The Secretary of Homeland Security shall make all reasonable attempts to cooperate with the Governments of Mexico and the countries of Central America in implementing a media campaign that raises awareness of the issues in paragraph (2).

**SA 4794.** Mr. VITTER submitted an amendment intended to be proposed to

amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . USE OF FUNDS FOR CONSTRUCTION.**

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall use for construction, at the alignment and elevation described in the programmatic environmental impact statement, of the project identified in the report of the Chief of Engineers for Morganza to the Gulf of Mexico, Louisiana, authorized by section 1001(24) of the Water Resources Development Act of 2007 (121 Stat. 1053) (including any modifications to that project agreed to by the Secretary and the non-Federal interest)—

(1) of the unexpended funds made available under the heading “FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE”, under the heading “CORPS OF ENGINEERS—CIVIL”, under the heading “DEPARTMENT OF THE ARMY” of chapter 3 of title I of division B of Public Law 109-148 (119 Stat. 2762; 120 Stat. 455), \$2,000,000; and

(2) of the funds made available for non-Federal levees and associated protection measures in Terrebonne Parish under the heading “FLOOD CONTROL AND COASTAL EMERGENCIES”, under the heading “CORPS OF ENGINEERS—CIVIL”, under the heading “DEPARTMENT OF THE ARMY” of chapter 3 of title II of Public Law 109-234 (120 Stat. 455), \$2,000,000.

(b) TREATMENT OF CERTAIN DATA.—The Secretary shall consider to be current any data, including previously developed environmental and economic data contained in the report and environmental impact statement described in subsection (a), collected for the project described in that subsection.

**SA 4795.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title VIII.

**SA 4796.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE \_\_\_\_ GI BILL FINANCING PROVISION**

**SEC. \_\_\_\_ . GI BILL FINANCING PROVISION.**

(a) IN GENERAL.—Part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 1 the following new section:

**“SEC. 1A. INCREASE IN TAX ON HIGH INCOME INDIVIDUALS TO FINANCE THE GI BILL.**

“(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, there is

hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 0.47 percent of so much of modified adjusted gross income as exceeds \$500,000 (\$1,000,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)).

“(b) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term ‘modified adjusted gross income’ means adjusted gross income reduced by any deduction allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, a rule similar to the rule of section 67(e) shall apply for purposes of determining adjusted gross income for purposes of this section.

“(c) NONRESIDENT ALIEN.—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed by section 871(b) shall be taken into account under this section.

“(d) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.

“(e) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.”.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 1 the following new item:

“Sec. 1A. Increase in tax on high income individuals to finance the GI bill.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(d) SECTION 15 NOT TO APPLY.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

**SA 4797.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ (a) The Secretary of the Army (referred to in this section as the “Secretary”) shall initiate the construction of the project authorized by section 1001(24) of the Water Resources Development Act of 2007 (121 Stat. 1053), as described in the programmatic environmental impact statement of the project.

(b) To initiate the construction of the project described in subsection (a), the Secretary shall accept from the Terrebonne Levee and Conservation District, Louisiana, and the State of Louisiana (referred to in this section as the “non-Federal interests”) advanced funding that the Secretary shall credit toward the non-Federal share of the cost of the project.

(c) The Secretary shall credit toward the non-Federal share of the cost of the project described in subsection (a) the cost of design and construction work carried out by the non-Federal interests before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project.

(d) In carrying out subsection (a), the Secretary shall consider current any data col-

lected for the project described in that subsection.

**SA 4798.** Mr. REID (for Mr. SCHUMER (for himself and Mr. McCAIN)) proposed an amendment to the bill S. 431, to require convicted sex offenders to register online identifiers, and for other purposes; as follows:

On page 2, line 3, strike “2007” and insert “2008”.

On page 2, line 4, strike “2007” and insert “2008”.

On page 2, lines 18 and 19, strike “, instant message address,”.

On page 2, line 20, strike “an”.

On page 2, strike line 22, and all that follows through page 3, line 5, and insert the following:

(b) UPDATING OF INFORMATION.—Section 113(c) of the Sex Offender Registration and Notification Act (42 U.S.C. 16913(c)) is amended by adding at the end the following:

“The Attorney General shall have the authority to specify the time and manner for reporting of other changes in registration information, including any addition or change of an electronic mail address or other designation used for self-identification or routing in Internet communication or posting.”.

On page 3, strike line 12 and all that follows through page 4, line 3, and insert the following:

“(d) KNOWING FAILURE TO REGISTER ONLINE IDENTIFIERS.—Whoever—

“(1) is required to register under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.); and

“(2) uses an email address or any other designation used for self-identification or routing in Internet communication or posting which the individual knowingly failed to provide for inclusion in a sex offender registry as required under that Act;

shall be fined under this title or imprisoned not more than 10 years, or both.”.

On page 4, strike lines 11 through 13, and insert the following:

**SEC. 3. CHECKING OF ONLINE IDENTIFIERS AGAINST SEX OFFENDER REGISTRATION INFORMATION.**

On page 4, line 23 strike “, instant” and all that follows through “offender” on line 25, and insert “or designation used for self-identification or routing in Internet communication or posting”.

On page 5, strike line 1 and all that follows through page 9, line 6, and insert the following:

(b) ONLINE IDENTIFIER CHECKING SYSTEM FOR SOCIAL NETWORKING WEBSITES.—Section 121 of the Sex Offender Registration and Notification Act (42 U.S.C. 16921) is amended by adding at the end the following:

“(d) CHECKING SYSTEM FOR SOCIAL NETWORKING WEBSITES.—

“(1) IN GENERAL.—The Attorney General shall maintain a system available to social networking websites that permits the automated comparison of lists or databases of the electronic mail addresses and other designations used for self-identification or routing in Internet communication or posting of the registered users of such websites, to the corresponding information contained in or derived from sex offender registries.

“(2) QUALIFICATION FOR USE OF SYSTEM.—A social networking website seeking to use the system established under paragraph (1) shall submit an application to the Attorney General which provides—

“(A) the name and legal status of the website;

“(B) the contact information for the website;

“(C) a description of the nature and operations of the website;

“(D) a statement explaining why the website seeks to use the system; and

“(E) such other information or attestations as the Attorney General may require to ensure that the website will use the system—

“(i) to protect the safety of the users of such website; and

“(ii) not for any unlawful or improper purpose.

“(3) SEARCHES AGAINST THE SYSTEM.—

“(A) IN GENERAL.—A social networking website approved to use the system established under paragraph (1) shall—

“(i) submit the information to be compared in a form satisfying the technical requirements for searches against the system; and

“(ii) pay any fee established by the Attorney General for use of the system.

“(B) FREQUENCY OF USE OF THE SYSTEM.—A social networking website approved by the Attorney General to use the system established under paragraph (1) may conduct searches under the system as frequently as the Attorney General may allow.

“(C) AUTHORITY OF AG TO SUSPEND USE.—The Attorney General may deny, suspend, or terminate use of the system by a social networking website that—

“(i) provides false information in its application for use of the system; or

“(ii) may be using or seeks to use the system for any unlawful or improper purpose.

“(4) LIMITATION ON RELEASE OF INTERNET IDENTIFIERS.—

“(A) NO PUBLIC RELEASE.—Neither the Attorney General nor a social networking website approved to use the system established under paragraph (1) may release to the public any list of the e-mail addresses or other designations used for self-identification or routing in Internet communication or posting of sex offenders contained in the system.

“(B) ADDITIONAL LIMITATIONS.—The Attorney General shall limit the release of information obtained through the use of the system established under paragraph (1) by social networking websites approved to use such system.

“(C) STRICT ADHERENCE TO LIMITATION.—The use of the system established under paragraph (1) by a social networking website shall be conditioned on the website’s agreement to observe the limitations required under this paragraph.

“(D) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit the authority of the Attorney General under any other provision of law to conduct or to allow searches or checks against sex offender registration information.”

On page 9, line 9, strike “commercial”.

On page 9, line 10, insert “parent,” after “employee.”

On page 9, line 11, strike “commercial”.

On page 9, line 17, strike “commercial”.

On page 9, line 19, strike “commercial”.

On page 10, line 10, strike “commercial”.

On page 10, line 16, strike “commercial”.

On page 10, lines 19 and 20, strike “, instant message addresses.”

On page 10, lines 20 and 21, strike “and other similar Internet identifiers of” and insert “and other designations used for self-identification or routing in Internet communication or posting by”.

On page 10, line 25, strike “commercial”.

On page 11, lines 2 and 3, strike “, instant message addresses.”

On page 11, lines 3 and 4, strike “and other similar Internet identifiers of” and insert “and other designations used for self-identification or routing in Internet communication or posting by”.

On page 11, line 21, strike “commercial”.

On page 11, line 22, strike “a commercially operated” and insert “an”.

On page 12, line 8, strike “, such as a forum” and all that follows through “messenger” on line 9.

On page 12, strike lines 15 through 19.

On page 12, line 20, strike “(17)” and insert “(16)”.

On page 12, line 23, strike “(18)” and insert “(17)”.

On page 13, strike line 3 and all that follows through the first period on line 6.

On page 13, strike line 10 and all that follows through page 14, line 13, and insert the following:

Section 2422 of title 18, United States Code, is amended by adding at the end the following:

“(c) MISREPRESENTATION OF AGE.—Whoever knowingly misrepresents his or her age using the Internet or any other facility or means of interstate or foreign commerce or the mail, with the intent to further or facilitate a violation of this section, shall be fined under this title and imprisoned not more than 20 years. A sentence imposed under this subsection shall be in addition and consecutive to any sentence imposed for the offense the age misrepresentation was intended to further or facilitate.”

On page 14, line 15, strike “WATCH” and insert “VIEW”.

On page 15, line 21, strike “and”.

On page 15, between lines 21 and 22, insert the following:

(C) in subsection (c), by striking “computer” each place that term appears and inserting “using any means or facility of interstate or foreign commerce”; and

On page 15, line 22, strike “(C)” and insert “(D)”.

On page 16, line 15, strike “and”.

On page 16, between lines 15 and 16, insert the following:

(C) in paragraph (3)—

(i) by inserting “using any means or facility of interstate or foreign commerce” after “so shipped or transported”; and

(ii) by striking “by any means.”; and

On page 16, line 16, strike “(C)” and insert “(D)”.

On page 16, between lines 23 and 24, insert the following:

(B) in paragraph (2), by inserting “using any means or facility of interstate or foreign commerce” after “mailed, or” each place it appears;

On page 16, line 24, strike “(B)” and insert “(C)”.

On page 17, line 3, strike “(C)” and insert “(D)”.

On page 17, line 7, strike “(D)” and insert “(E)”.

**SA 4799.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 101, line 16, strike “\$73,000,000” and insert “\$70,000,000”.

On page 101, line 23, strike “, and not” and all that follows through “designees:” on page 102, line 1, and insert a colon.

On page 103, line 1, strike “\$3,000,000” and insert “\$6,000,000”.

**SA 4800.** Mr. WARNER (for himself, Mr. WEBB, Mr. HAGEL, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Depart-

ment of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. —. PILOT PROGRAM ON TRANSFERABILITY OF POST-9/11 VETERANS EDUCATIONAL ASSISTANCE BY CERTAIN MEMBERS OF THE ARMED FORCES.**

(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability, for purposes of enhancing the recruitment and retention of members of the Armed Forces, of authorizing the Secretaries of the military departments to permit an individual described in subsection (c) who is entitled to educational assistance under chapter 33 of title 38, United States Code (as added by section \_\_\_\_\_ of this Act), to elect to transfer to one or more of the dependents specified in subsection (d) a portion of such individual’s entitlement to such assistance, subject to the limitation in subsection (e).

(b) DURATION OF PILOT PROGRAM.—An individual may not be approved to transfer educational assistance under the pilot program under this section after the end of the two-year period beginning on the date of the commencement of the pilot program.

(c) ELIGIBLE INDIVIDUALS.—An individual described in this subsection is a member of the Armed Forces who, at the time of the approval by the Secretary of the military department concerned of the individual’s request to transfer entitlement to educational assistance under the pilot program under this section—

(1) has completed at least four years of service in the Armed Forces;

(2) meets such other requirements as the Secretary of Defense may prescribe for purposes of this section; and

(3) enters into an agreement to serve at least six more years as a member of the Armed Forces.

(d) ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to educational assistance under the pilot program under this section may transfer the individual’s entitlement as follows:

(1) To the individual’s spouse.

(2) To one or more of the individual’s children.

(3) To a combination of the individuals referred to in paragraphs (1) and (2).

(e) LIMITATION ON MONTHS OF TRANSFER.—(1) IN GENERAL.—Except as provided in paragraph (2), the total number of months of entitlement transferrable by an individual under the pilot program under this section may not exceed 18 months.

(2) ADDITIONAL MONTHS TRANSFERRABLE AFTER CERTAIN SERVICE.—The total number of months of entitlement transferrable under the pilot program by an individual who serves at least 10 years of service in the Armed Forces may not exceed 36 months.

(f) DESIGNATION OF TRANSFEREE.—An individual transferring entitlement to educational assistance under the pilot program under this section shall—

(1) designate the dependent or dependents to whom such entitlement is being transferred;

(2) designate the number of months of such entitlement to be transferred to each such dependent; and

(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

(g) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—

(1) TIME FOR TRANSFER.—Subject to the time limitation for use of entitlement under

section 3321 of title 38, United States Code (as so added), an individual approved to transfer entitlement to educational assistance under the pilot program under this section may transfer such entitlement at any time after the approval of the individual's request to transfer such entitlement without regard to whether the individual is a member of the Armed Forces when the transfer is executed or the authority for approvals of transfers of entitlement has ceased under subsection (b).

(2) MODIFICATION OR REVOCATION.—

(A) IN GENERAL.—An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

(B) NOTICE.—The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary of the military department concerned and the Secretary of Veterans Affairs.

(3) PROHIBITION ON TREATMENT OF TRANSFERRED ENTITLEMENT AS MARITAL PROPERTY.—Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(h) COMMENCEMENT OF USE.—A dependent to whom entitlement to educational assistance is transferred under the pilot program under this section may not commence the use of the transferred entitlement until—

(1) in the case of entitlement transferred to either a spouse or a child, the completion by the individual making the transfer of four years of service in the Armed Forces; and

(2) in the case of entitlement transferred to a child—

(A) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

(B) the attainment by the child of 18 years of age.

(i) ADDITIONAL ADMINISTRATIVE MATTERS.—

(1) NATURE OF TRANSFERRED ENTITLEMENT.—Except as provided under subsection (f)(2) and subject to the provisions of this subsection, a dependent to whom entitlement is transferred under the pilot program this section is entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in the same manner as the individual from whom the entitlement was transferred.

(2) RATE OF PAYMENT.—Educational assistance payable to a dependent to whom entitlement is transferred under this section shall be payable at the same rate as such entitlement would otherwise be payable under chapter 33 of title 38, United States Code (as so added), to the individual making the transfer.

(3) USE.—The use of any entitlement to educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used (as determined pursuant to regulations prescribed by the Secretary of Veterans Affairs for purposes of this section) by the dependent concerned.

(4) DEATH OF TRANSFEROR.—The death of an individual transferring entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(5) LIMITATION ON AGE OF USE BY CHILD TRANSFERREES.—A child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

(6) SCOPE OF USE BY TRANSFERREES.—The purposes for which a dependent to whom entitlement is transferred under this section

may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(7) ADDITIONAL ADMINISTRATIVE PROVISIONS.—The administrative provisions of chapter 33 of title 38, United States Code (as so added), shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible individual for purposes of such provisions.

(j) OVERPAYMENT.—

(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of educational assistance with respect to a dependent to whom entitlement is transferred under the pilot program under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38, United States Code.

(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (c)(3) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

(i) by reason of the death of the individual; or

(ii) for a reason referred to in section 3311(c)(4) of this title (as so added).

(k) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations for purposes of the pilot program under this section. Such regulations shall specify the following:

(1) The manner and effect of an election to modify or revoke a transfer of entitlement under subsection (g)(2).

(2) The manner of determining the rates of educational assistance payable to dependents for purposes of subsection (i)(2) and of determining the charge against entitlement of transferring individuals for educational assistance utilized by dependents for purposes of subsection (i)(3).

(3) The manner of the applicability of the administrative provisions referred to in subsection (i)(7) to a dependent to whom entitlement is transferred under this section.

(l) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the cessation under subsection (b)(2) of approvals for transfer of entitlement under the pilot program under this section, the Secretary of Defense shall submit to Congress a report on the pilot program.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the use of the authorities under the pilot program by the Secretaries of the military departments.

(B) An assessment of the utility of the authorities under the pilot program in enhancing recruitment and retention of members of the Armed Forces.

(C) Such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

(m) SECRETARY OF A MILITARY DEPARTMENT DEFINED.—In this section, the term "Secretary of a military department", with respect to the Coast Guard, means the Sec-

retary of Defense or the Secretary of Homeland Security when the Coast Guard is not operating as a service in the Navy.

**SA 4801.** Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill (amendment #4789) include the following:

"SEC. \_\_\_\_ Section 433 of Division F of P.L. 110-161 is hereby repealed. Notwithstanding the Energy Policy Act of 2005 (Public Law 109-58), the Secretary of the Interior shall not issue any final regulations pursuant to subsection 369(d) of such Act sooner than 90 days after publication of proposed regulations pursuant to such subsection and shall not conduct a competitive oil shale lease sale pursuant to subsection 369(e) of such Act prior to December 31, 2011."

**SA 4802.** Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 4789 proposed by Mr. REID to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill (amendment #4789) insert the following:

"SEC. \_\_\_\_ Funds provided in this Act for the Department of the Interior shall be used to prepare and publish final regulations regarding a commercial leasing program for oil shale resources on public lands pursuant to subsection 369(d) of the Energy Policy Act of 2005 (Public Law 109-58)."

**SA 4803.** Mr. REID proposed an amendment to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; as follows:

In lieu of the language proposed to be inserted, insert the following:

TITLE I

OTHER SECURITY, MILITARY CONSTRUCTION, AND INTERNATIONAL MATTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for "Public Law 480 Title II Grants", \$850,000,000, to remain available until expended.

For an additional amount for "Public Law 480 Title II Grants", \$395,000,000, to become available on October 1, 2008, and to remain available until expended.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, \$4,000,000, to remain available until September 30, 2009.

## LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL  
ACTIVITIES

For an additional amount for “Salaries and Expenses, General Legal Activities”, \$1,648,000, to remain available until September 30, 2009.

SALARIES AND EXPENSES, UNITED STATES  
ATTORNEYS

For an additional amount for “Salaries and Expenses, United States Attorneys”, \$5,000,000, to remain available until September 30, 2009.

UNITED STATES MARSHALS SERVICE  
SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$18,621,000, to remain available until September 30, 2009.

FEDERAL BUREAU OF INVESTIGATION  
SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$164,965,000, to remain available until September 30, 2009.

For an additional amount for “Salaries and Expenses”, \$82,600,000 to become available on October 1, 2008 and to remain available until September 30, 2009.

DRUG ENFORCEMENT ADMINISTRATION  
SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$22,666,000, to remain available until September 30, 2009.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND  
EXPLOSIVES

## SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$4,000,000, to remain available until September 30, 2009.

FEDERAL PRISON SYSTEM  
SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$9,100,000, to remain available until September 30, 2009.

## CHAPTER 3

## MILITARY CONSTRUCTION

## MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construction, Army”, \$1,170,200,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, \$1,033,000,000 shall remain available until September 30, 2009, and \$137,200,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

MILITARY CONSTRUCTION, NAVY AND MARINE  
CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$300,084,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, \$270,785,000 shall remain available until September 30, 2009, and \$29,299,000 shall remain available until September 30, 2012.

## MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$361,900,000: *Pro-*

*vided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, \$324,300,000 shall remain available until September 30, 2009, and \$37,600,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

## MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for “Military Construction, Defense-Wide”, \$27,600,000, to remain available until September 30, 2009: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, NAVY AND  
MARINE CORPS

For an additional amount for “Family Housing Construction, Navy and Marine Corps”, \$11,766,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law.

DEPARTMENT OF DEFENSE BASE CLOSURE  
ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$1,202,886,000, to remain available until expended.

## DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION  
GENERAL OPERATING EXPENSES

For an additional amount for “General Operating Expenses”, \$100,000,000, to remain available until expended.

## INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for “Information Technology Systems”, \$20,000,000, to remain available until expended.

## CONSTRUCTION, MAJOR PROJECTS

For an additional amount for “Construction, Major Projects”, \$437,100,000, to remain available until expended, which shall be for acceleration and completion of planned major construction of Level I polytrauma rehabilitation centers as identified in the Department of Veterans Affairs’ Five Year Capital Plan: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Army”, there is hereby appropriated an additional \$70,600,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Army: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1302. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Navy and Marine Corps”, there is hereby appropriated an additional \$89,820,000, to remain available until September 30, 2012, for the acceleration and completion of child development and youth center construction as proposed in the fiscal year 2009 budget request for the Department of the Navy: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1303. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Air Force”, there is hereby appropriated an additional \$8,100,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Air Force: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1304. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Army”, there is hereby appropriated an additional \$200,000,000, to remain available until September 30, 2012, to accelerate barracks improvements at Department of the Army installations: *Provided*, That such funds may be obligated and expended to carry out planning and design and barracks construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for barracks construction prior to obligation.

SEC. 1305. COLLECTION OF CERTAIN INDEBTEDNESS OF MEMBERS OF THE ARMED FORCES AND VETERANS WHO DIE OF INJURY INCURRED OR AGGRAVATED IN SERVICE IN THE LINE OF DUTY IN A COMBAT ZONE. (a) LIMITATION ON AUTHORITY.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5302 the following new section:

“§ 5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone

“(a) LIMITATION ON AUTHORITY.—The Secretary may not collect all or any part of an amount owed to the United States by a member of the Armed Forces or veteran described in subsection (b) under any program under the laws administered by the Secretary, other than a program referred to in subsection (c), if the Secretary determines that termination of collection is in the best interest of the United States.

“(b) COVERED INDIVIDUALS.—A member of the Armed Forces or veteran described in this subsection is any member or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) in a war or in combat against a hostile force during a period of hostilities (as that term is defined in section 1712A(a)(2)(B) of this title) after September 11, 2001.

“(c) INAPPLICABILITY TO HOUSING AND SMALL BUSINESS BENEFIT PROGRAMS.—The limitation on authority in subsection (a) shall not apply to any amounts owed the United States under any program carried out under chapter 37 of this title.”

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of

such title is amended by inserting after the item relating to section 5302 the following new item:

“5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.”

(b) **EQUITABLE REFUND.**—In any case where all or any part of an indebtedness of a covered individual, as described in section 5302A(a) of title 38, United States Code, as added by subsection (a)(1), was collected after September 11, 2001, and before the date of the enactment of this Act, and the Secretary of Veterans Affairs determines that such indebtedness would have been terminated had such section been in effect at such time, the Secretary may refund the amount so collected if the Secretary determines that the individual is equitably entitled to such refund.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to collections of indebtedness of members of the Armed Forces and veterans who die on or after September 11, 2001.

(d) **SHORT TITLE.**—This section may be cited as the “Combat Veterans Debt Elimination Act of 2008”.

#### CHAPTER 4

##### SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

##### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, \$1,413,700,000, to remain available until September 30, 2009, of which \$212,400,000 for worldwide security protection is available until expended: *Provided*, That not more than \$1,095,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq: *Provided further*, That of the funds appropriated under this heading, not more than \$30,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Department of State: *Provided further*, That of the funds appropriated under this heading, up to \$5,000,000 shall be made available to establish a United States Consulate in Lhasa, Tibet: *Provided further*, That the Department of State shall not consent to the opening of a consular post in the United States by the People’s Republic of China until such time as a United States Consulate in Lhasa, Tibet is established.

##### OFFICE OF INSPECTOR GENERAL (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of Inspector General”, \$12,500,000, to remain available until September 30, 2009: *Provided*, That \$2,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and up to \$5,000,000 may be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

##### EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for “Educational and Cultural Exchange Programs”, \$10,000,000, to remain available until September 30, 2009, of which \$5,000,000 shall be for programs and activities in Africa, and \$5,000,000 shall be for programs and activities in the Western Hemisphere.

##### EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance”,

\$76,700,000, to remain available until expended, for facilities in Afghanistan.

##### INTERNATIONAL ORGANIZATIONS CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for “Contributions to International Organizations”, \$66,000,000, to remain available until September 30, 2009.

##### CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for “Contributions for International Peacekeeping Activities”, \$383,600,000, to remain available until September 30, 2009, of which \$333,600,000 shall be made available for the United Nations-African Union Hybrid Mission in Darfur.

##### RELATED AGENCY

##### BROADCASTING BOARD OF GOVERNORS

##### INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations”, \$3,000,000, to remain available until September 30, 2009.

##### BILATERAL ECONOMIC ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT

##### INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for “International Disaster Assistance”, \$240,000,000, to remain available until expended.

##### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$149,500,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading, not more than \$25,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Agency for International Development.

##### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$4,000,000, to remain available until September 30, 2009.

##### OTHER BILATERAL ECONOMIC ASSISTANCE

##### ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund”, \$1,962,500,000, to remain available until September 30, 2009, of which not more than \$398,000,000 may be made available for assistance for Iraq, \$150,000,000 shall be made available for assistance for Jordan to meet the needs of Iraqi refugees, and up to \$53,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law: *Provided*, That not more than \$200,000,000 of the funds appropriated under this heading in this subchapter shall be made available for assistance for the West Bank: *Provided further*, That funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the funds made available under this heading for energy-related assistance for North Korea may be made available to support the goals of the Six Party Talks Agreements after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements.

##### DEPARTMENT OF STATE

##### DEMOCRACY FUND

For an additional amount for “Democracy Fund”, \$76,000,000, to remain available until

September 30, 2009, of which \$75,000,000 shall be for democracy programs in Iraq and \$1,000,000 shall be for democracy programs in Chad.

##### INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$520,000,000, to remain available until September 30, 2009, of which not more than \$25,000,000 shall be made available for security assistance for the West Bank: *Provided*, That of the funds appropriated under this heading, \$1,000,000 shall be made available for the Office of the United Nations High Commissioner for Human Rights in Mexico.

##### MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$330,500,000, to remain available until expended.

##### UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for “United States Emergency Refugee and Migration Assistance Fund”, \$36,608,000, to remain available until expended.

##### NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$10,000,000, to remain available until September 30, 2009.

##### MILITARY ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT

For an additional amount for “Peacekeeping Operations”, \$10,000,000, to remain available until September 30, 2009.

##### SUBCHAPTER B—BRIDGE FUND APPROPRIATIONS FOR FISCAL YEAR 2009

##### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS

##### DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, \$652,400,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided*, That of the funds appropriated under this heading, \$78,400,000 is for worldwide security protection and shall remain available until expended: *Provided further*, That not more than \$500,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq.

##### OFFICE OF INSPECTOR GENERAL (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of Inspector General”, \$57,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided*, That \$36,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight and up to \$5,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

##### EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance”, \$41,300,000, which shall become available on October 1, 2008 and remain available until expended, for facilities in Afghanistan.

##### INTERNATIONAL ORGANIZATIONS

##### CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for “Contributions to International Organizations”, \$75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL  
PEACEKEEPING ACTIVITIES

For an additional amount for “Contributions for International Peacekeeping Activities”, \$150,500,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations”, \$6,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for “Global Health and Child Survival”, \$75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, for programs to combat avian influenza.

DEVELOPMENT ASSISTANCE

For an additional amount for “Development Assistance”, \$200,000,000, for assistance for developing countries to address the international food crisis notwithstanding any other provision of law, which shall become available on October 1, 2008 and remain available through September 30, 2010: *Provided*, That such assistance should be carried out consistent with the purposes of section 103(a)(1) of the Foreign Assistance Act of 1961: *Provided further*, That not more than \$50,000,000 should be made available for local or regional purchase and distribution of food: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of such funds to alleviate hunger and malnutrition, including a list of those countries facing significant food shortages.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for “International Disaster Assistance”, \$200,000,000, which shall become available on October 1, 2008 and remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$93,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$1,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund”, \$1,132,300,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than \$110,000,000 may be made available for assistance for Iraq, \$100,000,000 shall be made available for assistance for Jordan, not more than \$455,000,000 may be made available for assistance for Afghanistan, not more than \$150,000,000 may be made available for assistance for Pakistan,

not more than \$150,000,000 shall be made available for assistance for the West Bank, and \$15,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW  
ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$151,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than \$50,000,000 shall be made available for security assistance for the West Bank.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$350,000,000, which shall become available on October 1, 2008 and remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM,  
DEMING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$4,500,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008 and remain available through September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for “Foreign Military Financing Program”, \$145,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which \$100,000,000 shall be made available for assistance for Jordan: *Provided*, That section 3802(c) of title III, chapter 8 of Public Law 110-28 shall apply to funds made available under this heading for assistance for Lebanon.

PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, \$85,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

SUBCHAPTER C—GENERAL PROVISIONS—THIS  
CHAPTER

EXTENSION OF AUTHORITIES

SEC. 1401. Funds appropriated by this chapter may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Year 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

IRAQ

SEC. 1402. (a) ASSET TRANSFER AGREEMENT.—

(1) None of the funds appropriated by this chapter for infrastructure maintenance activities in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the Governments of the United States and Iraq have entered into, and are implementing, an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq.

(2) None of the funds appropriated by this chapter may be made available for the construction of prison facilities in Iraq.

(b) ANTI-CORRUPTION.—None of the funds appropriated by this chapter for rule of law programs in Iraq may be made available for assistance for the Government of Iraq until the Secretary of State certifies and reports to the Committees on Appropriations that a

comprehensive anti-corruption strategy has been developed, and is being implemented, by the Government of Iraq, and the Secretary of State submits a list, in classified form if necessary, to the Committees on Appropriations of senior Iraqi officials who the Secretary has credible evidence to believe have committed corrupt acts.

(c) PROVINCIAL RECONSTRUCTION TEAMS.—None of the funds appropriated by this chapter for the operational or program expenses of Provincial Reconstruction Teams (PRTs) in Iraq may be made available until the Secretary of State submits a report to the Committees on Appropriations detailing—

(1) the strategy for the eventual winding down and close out of PRTs;

(2) anticipated costs associated with PRT operations, programs, and eventual winding down and close out, including security for PRT personnel and anticipated Government of Iraq contributions; and

(3) anticipated placement and cost estimates of future United States Consulates in Iraq.

(d) COMMUNITY STABILIZATION PROGRAM.—None of the funds appropriated by this chapter for the Community Stabilization Program in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the United States Agency for International Development is implementing recommendations contained in Office of Inspector General Audit Report No. E-267-08-001-P to ensure accountability of funds.

(e) MATCHING REQUIREMENT.—

(1) Notwithstanding any other provision of law, funds appropriated by this chapter for assistance for Iraq shall be made available only to the extent that the Government of Iraq matches such assistance on a dollar-for-dollar basis.

(2) Subsection (e)(1) shall not apply to funds made available for—

(A) grants and cooperative agreements for programs to promote democracy and human rights;

(B) the Community Action Program and other assistance through civil society organizations;

(C) humanitarian demining; or

(D) assistance for refugees, internally displaced persons, and civilian victims of the military operations.

(3) The Secretary of State shall certify to the Committees on Appropriations prior to the initial obligation of funds pursuant to this section that the Government of Iraq has committed to obligate matching funds on a dollar-for-dollar basis. The Secretary shall submit a report to the Committees on Appropriations not later than September 30, 2008 and 180 days thereafter, detailing the amounts of funds obligated and expended by the Government of Iraq to meet the requirements of this section.

(4) Not later than 45 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq since June 30, 2004, to assist Iraqi refugees in Syria, Jordan, and elsewhere, and the amount of such assistance the Government of Iraq plans to provide in fiscal year 2008. The Secretary shall work expeditiously with the Government of Iraq to establish an account within its annual budget sufficient to, at a minimum, match United States contributions on a dollar-for-dollar basis to organizations and programs for the purpose of assisting Iraqi refugees.

(f) VETTING.—Prior to the initial obligation of funds appropriated for assistance for Iraq in this chapter, the Secretary of State shall, in consultation with the heads of other Federal departments and agencies, take appropriate steps to ensure that such funds are

not provided to or through any individual, private entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, or engages in, terrorist activities.

(g) IRAQ RELIEF AND RECONSTRUCTION FUND.—

(1) Notwithstanding any other provision of law, the expired balances of funds appropriated or otherwise made available under the heading “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs shall be rescinded.

(2) None of the funds made available under the heading “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs may be reprogrammed for any purpose other than that previously notified to the Committees on Appropriations prior to April 30, 2008, and none of such funds may be made available to initiate any new projects or activities.

(3) Not later than 30 days after enactment of this Act, the Secretary of State shall report to the Committees on Appropriations on the balances of obligated funds referenced in subsection (g)(1), and estimates of the amount of funds required to close out ongoing projects or for outstanding claims.

AFGHANISTAN

SEC. 1403. (a) ASSISTANCE FOR WOMEN AND GIRLS.—Funds appropriated by this chapter under the heading “Economic Support Fund” that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, through local Afghan provincial and municipal governments and Afghan civil society organizations and in a manner that emphasizes the participation of Afghan women and directly improves the economic, social and political status of Afghan women and girls.

(b) HIGHER EDUCATION.—Of the funds appropriated by this chapter under the heading “Economic Support Fund” that are made available for education programs in Afghanistan, not less than 50 percent shall be made available to support higher education and vocational training programs in law, accounting, engineering, public administration, and other disciplines necessary to rebuild the country, in which the participation of women is emphasized.

(c) CIVILIAN ASSISTANCE.—Of the funds appropriated by this chapter under the heading “Economic Support Fund” that are available for assistance for Afghanistan, not less than \$10,000,000 shall be made available for continued support of the United States Agency for International Development’s Afghan Civilian Assistance Program, and not less than \$2,000,000 shall be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund.

(d) ANTI-CORRUPTION.—Not later than 90 days after the enactment of this Act, the Secretary of State shall—

(1) submit a report to the Committees on Appropriations on actions being taken by the Government of Afghanistan to combat corruption within the national and provincial governments, including to remove and prosecute officials who have committed corrupt acts;

(2) submit a list to the Committees on Appropriations, in classified form if necessary, of senior Afghan officials who the Secretary has credible evidence to believe have committed corrupt acts; and

(3) certify and report to the Committees on Appropriations that effective mechanisms are in place to ensure that assistance to national government ministries and provincial governments will be properly accounted for.

WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

SEC. 1404. (a) ANNUAL WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (b), the President may waive in whole or in part, with respect to North Korea, the application of any sanction under section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa-1(b)), for the purpose of—

(A) assisting in the implementation and verification of the compliance by North Korea with its commitment, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula; and

(B) promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction and their delivery systems.

(2) DURATION OF WAIVER.—Any waiver issued under this subsection shall expire at the end of the calendar year in which it is issued.

(b) EXCEPTIONS.—

(1) LIMITED EXCEPTION RELATED TO CERTAIN SANCTIONS AND PROHIBITIONS.—The authority under subsection (a) shall not apply with respect to a sanction or prohibition under subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines and certifies to the appropriate congressional committees that—

(A) all reasonable steps will be taken to assure that the articles or services exported or otherwise provided will not be used to improve the military capabilities of the armed forces of North Korea; and

(B) such waiver is in the national security interests of the United States.

(2) LIMITED EXCEPTION RELATED TO CERTAIN ACTIVITIES.—Unless the President determines and certifies to the appropriate congressional committees that using the authority under subsection (a) is vital to the national security interests of the United States, such authority shall not apply with respect to—

(A) an activity described in subparagraph (A) of section 102(b)(1) of the Arms Export Control Act that occurs after September 19, 2005, and before the date of the enactment of this Act;

(B) an activity described in subparagraph (C) of such section that occurs after September 19, 2005; or

(C) an activity described in subparagraph (D) of such section that occurs after the date of enactment of this Act.

(3) EXCEPTION RELATED TO CERTAIN ACTIVITIES OCCURRING AFTER DATE OF ENACTMENT.—The authority under subsection (a) shall not apply with respect to an activity described in subparagraph (A) or (B) of section 102(b)(1) of the Arms Export Control Act that occurs after the date of the enactment of this Act.

(c) NOTIFICATIONS AND REPORTS.—

(1) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees in writing not later than 15 days before exercising the waiver authority under subsection (a).

(2) ANNUAL REPORT.—Not later than January 31, 2009, and annually thereafter, the President shall submit to the appropriate congressional committees a report that—

(A) lists all waivers issued under subsection (a) during the preceding year;

(B) describes in detail the progress that is being made in the implementation of the commitment undertaken by North Korea, in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula;

(C) discusses specifically any shortcomings in the implementation by North Korea of that commitment; and

(D) lists and describes the progress and shortcomings, in the preceding year, of all other programs promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

MEXICO

SEC. 1405. (a) ASSISTANCE FOR MEXICO.—Of the funds appropriated in subchapter A under the heading “International Narcotics Control and Law Enforcement”, not more than \$350,000,000 may be made available for assistance for Mexico, only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That none of the funds made available under this section shall be made available for budget support or as cash payments: *Provided further*, That none of the funds made available under this section shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the Mexican military and police forces that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for Mexico under the heading “International Narcotics Control and Law Enforcement” may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that:

(1) The Government of Mexico is—

(A) strengthening the legal authority and independence of the National Human Rights Commission;

(B) establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(C) establishing an independent mechanism, with representation from civil society, to monitor programs to combat drug trafficking and related violence and organized crime, judicial reform, anti-corruption, and rule of law activities to ensure due process and the protection of freedoms of expression, association, and assembly, and rights of privacy, in accordance with Mexican and international law;

(D) is enforcing the prohibition on the use of testimony obtained through torture or other ill-treatment in violation of Mexican and international law;

(E) is ensuring that the Mexican military justice system is transferring all cases involving allegations of human rights violations by military personnel to civilian prosecutors and judicial authorities, and that the armed forces are fully cooperating with civilian prosecutors and judicial authorities in prosecuting and punishing in civilian courts members of the armed forces who have been credibly alleged to have committed such violations; and

(F) is ensuring that federal and state police forces are fully cooperating with prosecutors and judicial authorities in prosecuting and punishing members of the police forces who

have been credibly alleged to have committed violations of human rights.

(2) Civilian prosecutors and judicial authorities are investigating, prosecuting and punishing members of the Mexican military and police forces who have been credibly alleged to have committed human rights violations.

(c) EXCEPTION.—Notwithstanding subsection (b), of the funds made available for assistance for Mexico pursuant to this section, \$3,000,000 shall be made available for technical and other assistance to enable the Government of Mexico to implement a unified national registry of federal, state, and municipal police officers, and \$5,000,000 should be made available to the Bureau of Alcohol, Tobacco, Firearms and Explosives to deploy special agents in Mexico to support Mexican law enforcement agencies in tracing seized firearms and investigating firearms trafficking cases.

(d) REPORT.—The report required in subsection (b) shall include a description of actions taken with respect to each requirement specified in subsection (b) and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(e) NOTIFICATION.—Funds made available for Mexico in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

(f) SPENDING PLAN.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for Mexico in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals, and anticipated results.

(g) CONSULTATION.—Not later than 90 days after the date of the enactment of this Act, and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with Mexican and internationally recognized human rights organizations on progress in meeting the requirements described in subsection (b).

#### CENTRAL AMERICA

SEC. 1406. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A under the headings “International Narcotics Control and Law Enforcement” and “Economic Support Fund”, not more than \$100,000,000 may be made available for assistance for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That of the funds appropriated under the heading “Economic Support Fund”, \$40,000,000 shall be made available through the United States Agency for International Development for an Economic and Social Development Fund for Central America: *Provided further*, That of the funds made available pursuant to this section, \$5,000,000 shall be made available for assistance for Haiti and \$5,000,000 shall be made available for assistance for the Dominican Republic: *Provided further*, That of the funds made available pursuant to this section that are available for assistance for Guatemala, not less than \$1,000,000 shall be made available for a United States contribution to the International Commission Against Impunity in Guatemala: *Provided further*, That none of

the funds shall be made available for budget support or as cash payments: *Provided further*, That, with the exception of the first and third provisos in this section, none of the funds shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the military and police forces of the countries of Central America, Haiti and the Dominican Republic that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for the countries of Central America, Haiti and the Dominican Republic under the heading “International Narcotics Control and Law Enforcement” may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that the government of such country is—

(1) establishing a police complaints commission with authority and independence to receive complaints and carry out effective investigations;

(2) implementing reforms to improve the capacity and ensure the independence of the judiciary; and

(3) suspending, prosecuting and punishing members of the military and police forces who have been credibly alleged to have committed violations of human rights and corrupt acts.

(c) REPORT.—The report required in subsection (b) shall include actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary for which the response or action taken has been inadequate.

(d) NOTIFICATION.—Funds made available for assistance for the countries of Central America, Haiti and the Dominican Republic in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

(e) SPENDING PLAN.—Not later than 45 days after enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for the countries of Central America, Haiti and the Dominican Republic in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals and anticipated results.

(f) CONSULTATION.—Not later than 90 days after the date of enactment of this Act and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with internationally recognized human rights organizations, and human rights organizations in the countries of Central America, Haiti and the Dominican Republic receiving assistance pursuant to this section, on progress in meeting the requirements described in subsection (b).

(g) DEFINITION.—For the purposes of this section, the term “countries of Central America” means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

#### TECHNICAL PROVISIONS

SEC. 1407. (a) ADMINISTRATIVE EXPENSES.—Of the funds appropriated or otherwise made available under the heading “Economic Support Fund” by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of

Public Law 110-161), up to \$7,800,000 may be made available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development for alternative development programs in the Andean region of South America. These funds may be used to reimburse funds appropriated under the heading “Operating Expenses of the United States Agency for International Development” for obligations incurred for the purposes provided under this section prior to enactment of this Act.

(b) AUTHORITY.—Funds appropriated or otherwise made available by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161) under the heading “Economic Support Fund” that are available for a competitively awarded grant for nuclear security initiatives relating to North Korea shall be made available notwithstanding any other provision of law.

(c) EXTENSION OF AUTHORITY.—Not more than \$1,350,000 of the funds appropriated or otherwise made available under the heading “Foreign Military Financing Program” by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161) that were previously transferred to and merged with “Diplomatic and Consular Programs” may be made available for any purposes authorized for that account, of which up to \$500,000 shall be made available to increase the capacity of the United States Embassy in Mexico City to vet members and units of Mexican military and police forces that receive assistance made available by this Act and to monitor the uses of such assistance.

(d) REIMBURSEMENTS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall include the provision of sufficient funds to fully reimburse the United States Agency for International Development for the administrative costs, including the cost of direct hire personnel, incurred in implementing and managing the programs and activities under such transfer or allocation. Such funds transferred or allocated to the United States Agency for International Development for administrative costs shall be transferred to and merged with “Operating Expenses of the United States Agency for International Development”.

(e) EXCEPTION.—Section 8002 of title VIII of this Act shall not apply to this section.

(f) SPENDING AUTHORITY.—Funds made available by this chapter may be expended notwithstanding section 699K of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161).

#### BUYING POWER MAINTENANCE ACCOUNT (INCLUDING TRANSFER OF FUNDS)

SEC. 1408. (a) Of the funds appropriated under the heading “Diplomatic and Consular Programs” and allocated by section 3810 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28), \$26,000,000 shall be transferred to and merged with funds in the “Buying Power Maintenance Account”: *Provided*, That of the funds made available by this chapter up to an additional \$74,000,000 may be transferred to and merged with the “Buying Power Maintenance Account”, subject to the regular notification procedures of the Committees on

Appropriations and in accordance with the procedures in section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). Any funds transferred pursuant to this section shall be available, without fiscal year limitation, pursuant to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by amending subparagraph (D) to read as follows:

“(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.”.

#### SERBIA

SEC. 1409. (a) Of the funds made available for assistance for Serbia under the heading “Assistance for Eastern Europe and the Baltic States” by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161), an amount equivalent to the costs of damage to the United States Embassy in Belgrade, Serbia, as estimated by the Secretary of State, resulting from the February 21, 2008 attack on such Embassy, shall be transferred to, and merged with, funds provided under the heading “Embassy Security, Construction, and Maintenance” to be used for necessary repairs or future construction.

(b) The requirements of subsection (a) shall not apply if the Secretary of State certifies to the Committees on Appropriations that the Government of Serbia has provided full compensation to the Department of State for damages to the United States Embassy in Belgrade, Serbia resulting from the February 21, 2008 attack on such Embassy.

(c) Section 8002 of title VIII of this Act shall not apply to this section.

#### RESCISSIONS

##### (INCLUDING RESCISSIONS)

SEC. 1410. (a) WORLD FOOD PROGRAM.—

(1) For an additional amount for a contribution to the World Food Program to assist farmers in countries affected by food shortages to increase crop yields, notwithstanding any other provision of law, \$20,000,000, to remain available until expended.

(2) Of the funds appropriated under the heading “Andean Counterdrug Initiative” in prior acts making appropriations for foreign operations, export financing, and related programs, \$20,000,000 are rescinded.

(b) SUDAN.—

(1) For an additional amount for “International Narcotics Control and Law Enforcement”, \$10,000,000, for assistance for Sudan to support formed police units, to remain available until September 30, 2009, and subject to prior consultation with the Committees on Appropriations.

(2) Of the funds appropriated under the heading “International Narcotics Control and Law Enforcement” in prior acts making appropriations for foreign operations, export financing, and related programs, \$10,000,000 are rescinded.

(c) MEXICO.—Of the unobligated balances of funds appropriated for “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$50,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(d) HORN OF AFRICA.—

(1) For an additional amount for “Economic Support Fund”, \$40,000,000 for programs to promote development and counter extremism in the Horn of Africa, to be administered by the United States Agency for International Development, and to remain available until September 30, 2009.

(2) Of the unobligated balances of funds appropriated for “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$40,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(e) EXCEPTION.—Section 8002 of title VIII of this Act shall not apply to subsections (a) and (b) of this section.

#### DARFUR PEACEKEEPING

SEC. 1411. Funds appropriated under the headings “Foreign Military Financing Program” and “Peacekeeping Operations” by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161) and by prior Acts making appropriations for foreign operations, export financing, and related programs may be used to transfer or lease helicopters necessary to the operations of the African Union/United Nations peacekeeping operation in Darfur, Sudan, that was established pursuant to United Nations Security Council Resolution 1769. The President may utilize the authority of sections 506 or 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j) or section 61 of the Arms Export Control Act (22 U.S.C. 2796) in order to effect such transfer or lease, notwithstanding any other provision of law except for sections 502B(a)(2), 620A and 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 2371, 2378d) and section 40A of the Arms Export Control Act (22 U.S.C. 2780). Any exercise of the authority of section 506 of the Foreign Assistance Act pursuant to this section may include the authority to acquire helicopters by contract.

#### FOOD SECURITY AND CYCLONE NARGIS RELIEF

##### (INCLUDING RESCISSION OF FUNDS)

SEC. 1412. (a) For an additional amount for “International Disaster Assistance”, \$225,000,000, to address the international food crisis globally and for assistance for Burma to address the effects of Cyclone Nargis: *Provided*, That not less than \$125,000,000 should be made available for the local or regional purchase and distribution of food to address the international food crisis: *Provided further*, That notwithstanding any other provision of law, none of the funds appropriated under this heading may be made available for assistance for the State Peace and Development Council.

(b) Of the unexpended balances of funds appropriated under the heading “Millennium Challenge Corporation” in prior Acts making appropriations for foreign operations, export financing and related programs, \$225,000,000 are rescinded.

(c) Section 8002 of title VIII of this Act shall not apply to this section.

#### JORDAN

##### (INCLUDING RESCISSION OF FUNDS)

SEC. 1413. (a) For an additional amount for “Economic Support Fund” for assistance for Jordan, \$100,000,000, to remain available until September 30, 2009.

(b) For an additional amount for “Foreign Military Financing Program” for assistance for Jordan, \$200,000,000, to remain available until September 30, 2009.

(c) Of the unexpended balances of funds appropriated under the heading “Millennium Challenge Corporation” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$300,000,000 are rescinded.

(d) Section 8002 of title VIII of this Act shall not apply to this section.

#### ALLOCATIONS

SEC. 1414. (a) Funds provided by this chapter for the following accounts shall be made available for programs and countries in the

amounts contained in the respective tables included in the explanatory statement accompanying this Act:

“Diplomatic and Consular Programs”.

“Economic Support Fund”.

(b) Any proposed increases or decreases to the amounts contained in such tables in the statement accompanying this Act shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

#### REPROGRAMMING AUTHORITY

SEC. 1415. Notwithstanding any other provision of law, to include minimum funding requirements or funding directives, funds made available under the headings “Development Assistance” and “Economic Support Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

#### SPENDING PLANS AND NOTIFICATION

##### PROCEDURES

SEC. 1416. (a) SUBCHAPTER A SPENDING PLAN.—Not later than 45 days after the enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in subchapter A, except for funds appropriated under the headings “International Disaster Assistance”, “Migration and Refugee Assistance”, and “United States Emergency Refugee and Migration Assistance Fund”.

(b) SUBCHAPTER B SPENDING PLAN.—The Secretary of State shall submit to the Committees on Appropriations not later than November 1, 2008, and prior to the initial obligation of funds, a detailed spending plan for funds appropriated or otherwise made available in subchapter B, except for funds appropriated under the headings “International Disaster Assistance”, “Migration and Refugee Assistance”, and “United States Emergency Refugee and Migration Assistance Fund”.

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

#### TERMS AND CONDITIONS

SEC. 1417. Unless otherwise provided for in this Act, funds appropriated, or otherwise made available, by this chapter shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161).

#### TITLE II

##### DOMESTIC MATTERS

##### CHAPTER 1

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### FOOD AND DRUG ADMINISTRATION

##### SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the Food and Drug Administration, \$265,000,000, to remain available until September 30, 2009: *Provided*, That of the amount provided: (1) \$119,000,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) \$48,500,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) \$23,500,000 shall be for the Center for Biologics Evaluation and Research and related field activities

in the Office of Regulatory Affairs; (4) \$10,700,000 shall be for the Center for Veterinary Medicine and related field activities in the Office of Regulatory Affairs; (5) \$35,500,000 shall be for the Center for Devices and Radiological Health and related field activities in the Office of Regulatory Affairs; (6) \$6,000,000 shall be for the National Center for Toxicological Research; and (7) \$21,800,000 shall be for other activities, including the Office of the Commissioner, the Office of Scientific and Medical Programs; the Office of Policy, Planning and Preparedness; the Office of International and Special Programs; the Office of Operations; and central services for these offices.

#### BUILDINGS AND FACILITIES

For an additional amount for plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, \$10,000,000, to remain available until expended.

### CHAPTER 2

#### DEPARTMENT OF COMMERCE

##### BUREAU OF THE CENSUS

##### PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic Censuses and Programs", \$210,000,000, to remain available until expended, for necessary expenses related to the 2010 Decennial Census: *Provided*, That not less than \$3,000,000 shall be transferred to the "Office of Inspector General" at the Department of Commerce for necessary expenses associated with oversight activities of the 2010 Decennial Census: *Provided further*, That \$1,000,000 shall be used only for a reimbursable agreement with the Defense Contract Management Agency to provide continuing contract management oversight of the 2010 Decennial Census.

#### DEPARTMENT OF JUSTICE

##### UNITED STATES MARSHALS SERVICE

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$50,000,000 for the United States Marshals Service to implement and enforce the Adam Walsh Child Protection and Safety Act (Public Law 109-248) to track down and arrest non-compliant sex offenders.

##### FEDERAL PRISON SYSTEM

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$178,000,000, to remain available until September 30, 2008.

##### OFFICE OF JUSTICE PROGRAMS

##### STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of Omnibus Crime Control and Safe Street Act of 1968 ("1968 Act"), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), \$490,000,000, to remain available until September 30, 2008.

For an additional amount for "State and Local Law Enforcement Assistance", \$100,000,000 for competitive grants to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotic activity stemming from the Southern border, of which \$10,000,000 shall be for the ATF Project Gunrunner.

### SCIENCE

#### NATIONAL AERONAUTICS AND SPACE

##### ADMINISTRATION

##### RETURN TO FLIGHT

For necessary expenses, not otherwise provided for, in carrying out return to flight activities associated with the space shuttle and activities from which funds were transferred to accommodate return to flight activities, \$200,000,000.

#### NATIONAL SCIENCE FOUNDATION RESEARCH AND RELATED ACTIVITIES

For additional expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), \$150,000,000.

##### EDUCATION AND HUMAN RESOURCES

For additional expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), \$50,000,000.

### CHAPTER 3

#### DEPARTMENT OF ENERGY

##### NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for "Non-Defense Environmental Cleanup", \$5,000,000, to remain available until expended.

##### URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For an additional amount for "Uranium Enrichment Decontamination and Decommissioning Fund", \$52,000,000, to remain available until expended.

##### SCIENCE

For an additional amount for "Science", \$100,000,000, to remain available until expended.

##### ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

##### DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for "Defense Environmental Cleanup", \$243,000,000, to remain available until expended.

#### GENERAL PROVISION—THIS CHAPTER

SEC. 2301. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION. The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended—

(1) in section 3102, by striking "For purposes" and inserting "Except as provided in section 3112A, for purposes";

(2) in section 3112(a), by striking "The Secretary" and inserting "Except as provided in section 3112A(d), the Secretary"; and

(3) by inserting after section 3112 the following:

**"SEC. 3112A. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.**

**"(a) DEFINITIONS.—**In this section:

**"(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—**The term 'completion of the Russian HEU Agreement' means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

**"(2) DOWNBLENDING.—**The term 'downblending' means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

**"(3) HIGHLY ENRICHED URANIUM.—**The term 'highly enriched uranium' has the meaning given that term in section 3102(4).

**"(4) HIGHLY ENRICHED URANIUM OF WEAPONS ORIGIN.—**The term 'highly enriched uranium of weapons origin' means highly enriched uranium that—

"(A) contains 90 percent or more uranium-235; and

"(B) is verified by the Secretary of Energy to be of weapons origin.

**"(5) LOW-ENRICHED URANIUM.—**The term 'low-enriched uranium' means a uranium product in any form, including uranium hexafluoride (UF<sub>6</sub>) and uranium oxide (UO<sub>2</sub>), in which the uranium contains less than 20 percent uranium-235, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

**"(6) RUSSIAN HEU AGREEMENT.—**The term 'Russian HEU Agreement' has the meaning given that term in section 3102(11).

**"(7) URANIUM-235.—**The term 'uranium-235' means the isotope <sup>235</sup>U.

**"(b) STATEMENT OF POLICY.—**It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

**"(c) PROMOTION OF DOWNBLENDING OF RUSSIAN HIGHLY ENRICHED URANIUM.—**

**"(1) INCENTIVES FOR THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—**Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement may not exceed the following amounts:

**"(A)** In each of the calendar years 2008 and 2009, not more than 22,500 kilograms.

**"(B)** In each of the calendar years 2010 and 2011, not more than 45,000 kilograms.

**"(C)** In calendar year 2012 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, not more than 67,500 kilograms.

**"(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—**

**"(A) IN GENERAL.—**In each calendar year beginning after the calendar year of the completion of the Russian HEU Agreement and before the termination date described in paragraph (8), the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed 400,000 kilograms.

**"(B) ADDITIONAL IMPORTS.—**

**"(i) IN GENERAL.—**In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), 20 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may be imported for every 3 kilograms of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

**"(ii) MAXIMUM ANNUAL IMPORTS.—**Not more than 200,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

**"(3) EXCEPTION WITH RESPECT TO INITIAL CORES.—**The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States for use in the initial core of a new nuclear reactor.

**"(4) ANNUAL ADJUSTMENT.—**

“(A) IN GENERAL.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

“(B) PUBLICATION OF ADJUSTMENTS.—As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustment under subparagraph (A).

“(5) AUTHORITY FOR ADDITIONAL ADJUSTMENT.—In addition to the annual adjustment under paragraph (4), the Secretary of Commerce may adjust the import limitations under paragraph (2)(A) for a calendar year if the Secretary—

“(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium from the Russian Federation and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

“(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

“(6) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

“(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

“(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2) shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

“(7) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—

“(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B) or (8)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

“(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B) and for purposes of paragraph (8)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

“(8) TERMINATION OF IMPORT RESTRICTIONS AFTER DOWNBLENDING OF AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—The provisions of this subsection shall terminate on the later of—

“(A) December 31, 2020; or

“(B) the date on which the Secretary of Energy certifies to Congress that, after the completion of the Russian HEU Agreement, not less than an additional 300 metric tons of Russian highly enriched uranium of weapons origin have been downblended.

“(9) SPECIAL RULE IF IMPORTATION UNDER RUSSIAN HEU AGREEMENT TERMINATES EARLY.—Notwithstanding any other provision of law, no low-enriched uranium produced in the Russian Federation that is not derived from highly enriched uranium of weapons origin, including low-enriched uranium obtained under contracts for separative work units, may be imported into the United States if, before the completion of the Russian HEU Agreement, the Secretary of Energy determines that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.

“(10) TECHNICAL VERIFICATIONS BY SECRETARY OF ENERGY.—

“(A) IN GENERAL.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B), (7), and (8)(B).

“(B) METHODS OF VERIFICATION.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures provided for in the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

“(11) ENFORCEMENT OF IMPORT LIMITATIONS.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

“(12) EFFECT ON OTHER AGREEMENTS.—

“(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

“(B) OTHER AGREEMENTS.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.

“(d) DOWNBLENDING OF HIGHLY ENRICHED URANIUM IN THE UNITED STATES.—The Secretary of Energy may sell uranium in the jurisdiction of the Secretary, including downblended highly enriched uranium, at fair market value to a licensed operator of a nuclear reactor in the United States—

“(1) in the event of a disruption in the nuclear fuel supply in the United States; or

“(2) after a determination of the Secretary under subsection (c)(9) that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.”.

#### CHAPTER 4

##### GENERAL PROVISION—THIS CHAPTER

SEC. 2401. VETERANS BUSINESS RESOURCE CENTERS. There are appropriated, out of any

money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, \$600,000 for the “Salaries and Expenses” account of the Small Business Administration, for grants in the amount of \$200,000 to veterans business resource centers that received grants from the National Veterans Business Development Corporation in fiscal years 2006 and 2007.

#### CHAPTER 5

##### GENERAL PROVISION—THIS CHAPTER

SEC. 2501. For fiscal year 2008, there is appropriated \$400,000,000, to remain available until December 31, 2008, for payments described in sections 101, 102(b)(3), and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393).

#### CHAPTER 6

##### DEPARTMENT OF LABOR

##### EMPLOYMENT AND TRAINING ADMINISTRATION

##### STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for “State Unemployment Insurance and Employment Service Operations” for grants to the States for the administration of State unemployment insurance, \$110,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, to be used for unemployment insurance workloads experienced by the States through September 30, 2008, which shall be available for Federal obligation through December 31, 2008.

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### CENTERS FOR DISEASE CONTROL AND PREVENTION

##### DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for “Disease Control, Research, and Training”, \$26,000,000, for the prevention of and response to medical errors including research, education and outreach activities; of which no less than \$5,000,000 shall be for responding to outbreaks of communicable diseases related to the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

##### NATIONAL INSTITUTES OF HEALTH

##### OFFICE OF THE DIRECTOR

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of the Director, National Institutes of Health”, \$400,000,000.

##### GENERAL PROVISIONS—THIS CHAPTER

SEC. 2601. In addition to amounts otherwise made available for fiscal year 2008, there are appropriated, out of any money in the Treasury not otherwise appropriated, \$1,000,000,000 for fiscal year 2008, for making payments under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623).

SEC. 2602. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28; 121 Stat. 189) is amended to read as follows:

“SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

“(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is \$7.25 per hour, the Government Accountability Office shall conduct a study to—

“(1) assess the impact of the minimum wage increases that occurred in American

Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110-28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

“(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

“(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

“(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

“(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

“(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

“(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

#### CHAPTER 7

##### RELATED AGENCY

##### AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For an additional amount for “Foreign Currency Fluctuations Account”, \$10,000,000, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

#### TITLE III

##### HURRICANES KATRINA AND RITA, AND OTHER NATURAL DISASTERS

#### CHAPTER 1

##### DEPARTMENT OF AGRICULTURE

##### FARM SERVICE AGENCY

##### EMERGENCY CONSERVATION PROGRAM

For the purposes of carrying out the Emergency Conservation Program, there is hereby appropriated \$49,413,000, to remain available until expended.

##### NATURAL RESOURCES CONSERVATION SERVICE

##### WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for “Watershed and Flood Prevention Operations”, for emergency recovery operations, \$130,464,000, to remain available until expended.

##### GENERAL PROVISION—THIS CHAPTER

##### (INCLUDING RESCISSION)

SEC. 3101. Of the funds made available in the second paragraph under the heading “Rural Utilities Service, Rural Electrification and Telecommunications Loans Program Account” in chapter 1 of division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109-148; 119 Stat. 2746), the Secretary may use an amount not to exceed \$1,000,000 of remaining unobligated funds for the cost of loan modifications to rural electric loans made or guaranteed under the Rural Electrification Act of 1936, to respond to damage caused by any weather related events since Hurricane Katrina, to remain available until expended: *Provided*, That \$1,000,000 of the remaining unobligated funds under such paragraph are rescinded.

#### CHAPTER 2

##### DEPARTMENT OF COMMERCE

##### ECONOMIC DEVELOPMENT ADMINISTRATION

##### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007 (Public Law 110-114), \$75,000,000.

##### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

##### OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for “Operations, Research, and Facilities” for necessary expenses related to economic impacts associated with commercial fishery failures, fishery resource disasters, and regulations on commercial fishing industries, \$75,000,000.

##### DEPARTMENT OF JUSTICE

##### OFFICE OF JUSTICE PROGRAMS

##### STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for “State and Local Law Enforcement Assistance”, for discretionary grants authorized by subpart 2 of part E, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect on September 30, 2006, \$75,000,000: *Provided*, That the amount made available under this heading shall be for local law enforcement initiatives in the Gulf Coast region related to the aftermath of Hurricane Katrina.

#### CHAPTER 3

##### DEPARTMENT OF DEFENSE—CIVIL

##### DEPARTMENT OF THE ARMY

##### CORPS OF ENGINEERS—CIVIL CONSTRUCTION

For an additional amount for “Construction” for necessary expenses related to the consequences of Hurricane Katrina and other

hurricanes of the 2005 season, and for recovery from other natural disasters \$5,033,345,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use \$4,362,000,000 of the funds appropriated under this heading to modify authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas to provide the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations current at the time of this construction; \$1,657,000,000 shall be used for the Lake Pontchartrain and Vicinity; \$1,415,000,000 shall be used for the West Bank and Vicinity project; and \$1,290,000,000 shall be for elements of the Southeast Louisiana Urban Drainage project, that are within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects to provide for interior drainage of runoff from rainfall with a 10 percent annual exceedance probability: *Provided further*, That none of this \$4,362,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That non-Federal cost allocations for these projects shall be consistent with the cost-sharing provisions under which the projects were originally constructed: *Provided further*, That the \$1,315,000,000 non-Federal cost share for these projects shall be repaid in accordance with provisions of section 103(k) of Public Law 99-662 over a period of 30 years: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That the Secretary of the Army is directed to use \$604,745,000 of the funds appropriated under this heading to provide hurricane and storm damage reduction, flood damage reduction and ecosystem restoration along the Gulf Coast of Mississippi and surrounding areas generally as described in the Mobile District Engineer’s Mississippi Coastal Improvements Program Comprehensive Plan Report; \$173,615,000 shall be used for ecosystem restoration projects; \$4,550,000 shall be used for the Moss Point Municipal Relocation project; \$5,000,000 shall be used for the Waveland Floodproofing project; \$150,000 shall be used for the Mississippi Sound Sub Aquatic Vegetation project; \$15,430,000 shall be used for the Coast-wide Dune Restoration project; \$397,000,000 shall be used for the Homeowners Assistance and Relocation project; and \$9,000,000 shall be used for the Forrest Heights Hurricane and Storm Damage Reduction project: *Provided further*, That none of this \$604,745,000 shall become available for obligation until October 1, 2008: *Provided further*, That these projects shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the \$211,661,000 non-Federal cost share for these projects shall be repaid in accordance with the provisions of section 103(k) of Public Law 99-662 over a period of 30 years: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds

that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That the Secretary of the Army is directed to use \$66,600,000 of the funds appropriated under this heading to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

#### MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for "Mississippi River and Tributaries" for recovery from natural disasters, \$17,700,000, to remain available until expended to repair damages to Federal projects caused by recent natural disasters.

#### OPERATIONS AND MAINTENANCE

For an additional amount for "Operations and Maintenance" to dredge navigation channels and repair other Corps projects related to natural disasters, \$338,800,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

#### FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes, and for recovery from other natural disasters, \$3,368,400,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use \$2,926,000,000 of the funds appropriated under this heading to modify, at full Federal expense, authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas; \$704,000,000 shall be used to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; \$90,000,000 shall be used for storm-proofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; \$459,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; \$53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; \$456,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; \$412,000,000 shall be used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; \$393,000,000 shall be used for repair and restoration of authorized protections and floodwalls; \$359,000,000 shall be used to complete the authorized protection for the Lake Pontchartrain and Vicinity Project and for the West Bank and Vicinity Project: *Provided further*, That none of this \$2,926,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That any project using funds appropriated

under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the Secretary of the Army, within available funds, is directed to continue the NEPA alternative evaluation of all options with particular attention to Options 1, 2 and 2a of the report to Congress, dated August 30, 2007, provided in response to the requirements of chapter 3, section 4303 of Public Law 110-28, and within 90 days of enactment of this Act provide the House and Senate Committees on Appropriations cost estimates to implement Options 1, 2 and 2a of the above cited report: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That \$348,000,000 of the amount provided under this heading shall be used for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: *Provided further*, That none of this \$348,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That this work shall be carried out at full Federal expense: *Provided further*, That the Secretary of the Army is directed to use \$94,400,000 of the funds appropriated under this heading to support emergency operations, to repair eligible projects nationwide, and for other activities in response to recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

#### GENERAL EXPENSES

For an additional amount for "General Expenses" for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, \$1,500,000, to remain available until expended.

#### CHAPTER 4

##### GENERAL PROVISIONS—THIS CHAPTER

SEC. 3401. Notwithstanding any other provision of law, and not later than 30 days after the date of submission of a request for a single payment, the Federal Emergency Management Agency shall provide a single payment for any eligible costs under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for any police station, fire station, or criminal justice facility that was damaged by Hurricane Katrina of 2005 or Hurricane Rita of 2005: *Provided*, That nothing in this section may be construed to alter the appeal or review process relating to assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That the Federal Emergency Management Agency shall not reduce the amount of assistance provided under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for such facilities.

SEC. 3402. Until such time as the updating of flood insurance rate maps under section 19 of the Flood Modernization Act of 2007 is completed (as determined by the district engineer) for all areas located in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers, the Administrator of the Federal Emergency Management Agency shall not adjust the chargeable premium rate for flood insurance under this section for any type or class of property located in an area in that District nor require the purchase of flood insurance for any type or class of property located in an area in that District nor subject to such purchase requirement prior to the updating of such national flood insurance program rate map: *Provided*, That for purposes of this section, the term "area" does not include any area (or subdivision thereof) that has chosen not to participate in the flood insurance program under this section as of the date of enactment of this Act.

#### CHAPTER 5

##### DEPARTMENT OF THE INTERIOR

##### BUREAU OF LAND MANAGEMENT

##### WILDLAND FIRE MANAGEMENT

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Wildland Fire Management", \$125,000,000, to remain available until expended, of which \$100,000,000 is for emergency wildland fire suppression activities, and of which \$25,000,000 is for rehabilitation and restoration of Federal lands: *Provided*, That emergency wildland fire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

##### NATIONAL PARK SERVICE

##### HISTORIC PRESERVATION FUND

For an additional amount for the "Historic Preservation Fund", for expenses related to the consequences of Hurricane Katrina, \$15,000,000, to remain available until expended: *Provided*, That the funds provided under this heading shall be provided to the Louisiana State Historic Preservation Officer, after consultation with the National Park Service, for grants for restoration and rehabilitation at Jackson Barracks: *Provided further*, That no more than 5 percent of funds provided under this heading for disaster relief grants may be used for administrative expenses.

##### ENVIRONMENTAL PROTECTION AGENCY

##### STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for "State and Tribal Assistance Grants", for expenses related to the consequences of Hurricane Katrina, \$5,000,000, to remain available until expended, for a grant to Cameron Parish, Louisiana, for construction of drinking water, wastewater and storm water infrastructure and for water quality protection: *Provided*, That for purposes of this grant, the grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency.

##### DEPARTMENT OF AGRICULTURE

##### FOREST SERVICE

##### WILDLAND FIRE MANAGEMENT

##### (INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Wildland Fire Management", \$325,000,000, to remain available until expended, of which \$250,000,000 shall be available for emergency wildfire suppression, and of which \$75,000,000 shall be available for rehabilitation and restoration of Federal lands and may be transferred to other Forest Service accounts as necessary: *Provided*, That emergency wildfire suppression funds are also available for repayment to other appropriations accounts

from which funds were transferred for wild-fire suppression.

## CHAPTER 6

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## CENTERS FOR MEDICARE AND MEDICAID SERVICES

For grants to States, consistent with section 6201(a)(4) of the Deficit Reduction Act of 2005, to make payments as defined by the Secretary in the methodology used for the Provider Stabilization grants to those Medicare participating general acute care hospitals, as defined in section 1886(d) of the Social Security Act, and currently operating in Jackson, Forrest, Hancock, and Harrison Counties of Mississippi and Orleans and Jefferson Parishes of Louisiana which continue to experience severe financial exigencies and other economic losses attributable to Hurricane Katrina or its subsequent flooding, and are in need of supplemental funding to relieve the financial pressures these hospitals face resulting from increased wage rates in hiring and retaining staff in order to stabilize access to patient care, \$350,000,000, to be made available until September 30, 2010.

## CHAPTER 7

## MILITARY CONSTRUCTION

## MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

## (INCLUDING RESCISSION OF FUNDS)

For an additional amount for "Military Construction, Army National Guard", \$11,503,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 109-234, \$7,000,000 are hereby rescinded.

## GENERAL PROVISION—THIS CHAPTER

SEC. 3701. Within the funds available in the Department of Defense Family Housing Improvement Fund as credited in accordance with 10 U.S.C. 2883(c), \$10,500,000 shall be available for use at the Naval Construction Battalion Center, Gulfport, Mississippi, under the terms and conditions specified by 10 U.S.C. 2883, to remain available until expended.

## CHAPTER 8

## DEPARTMENT OF TRANSPORTATION

## FEDERAL-AID HIGHWAYS

## EMERGENCY RELIEF PROGRAM

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, for eligible disasters occurring in fiscal years 2005 to the present, \$451,126,383, to remain available until expended.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## PERMANENT SUPPORTIVE HOUSING

For the provision of permanent supportive housing units as identified in the plan of the Louisiana Recovery Authority and approved by the Secretary of Housing and Urban Development, \$73,000,000 to remain available until expended, of which not less than \$20,000,000 shall be for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), not less than \$50,000,000 shall be for grants under the Shelter Plus Care Program as authorized under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.), and not more than \$3,000,000 shall be for related administrative expenses of the State of Louisiana or its designee or designees: *Provided*, That the Sec-

retary of Housing and Urban Development shall, upon request, make funds available under this paragraph to the State of Louisiana or its designee or designees: *Provided further*, That notwithstanding any other provision of law, for the purpose of administering the amounts provided under this paragraph, the State of Louisiana or its designee or designees may act in all respects as a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)): *Provided further*, That subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall not apply with respect to vouchers made available under this paragraph.

## PROJECT-BASED RENTAL ASSISTANCE

For an additional amount to areas impacted by Hurricane Katrina in the State of Mississippi for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), \$200,000,000, to remain available until expended.

## HOUSING TRANSITION ASSISTANCE

For an additional amount to the State of Louisiana for case management and housing transition services for families in areas impacted by Hurricanes Katrina and Rita of 2005, \$3,000,000, to remain available until expended.

## COMMUNITY DEVELOPMENT FUND

For an additional amount for the "Community development fund" for necessary expenses related to any uncompensated housing damage directly related to the consequences of Hurricane Katrina in the State of Alabama, \$50,000,000, to remain available until expended: *Provided*, That prior to the obligation of funds the State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address uncompensated housing damage: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency: *Provided further*, That the State may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this paragraph, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver.

## (RESCISSION)

Of the unobligated balances remaining from funds appropriated under this heading by section 159 of Public Law 110-116 for the Louisiana Road Home program, \$200,000,000 are rescinded.

## TITLE IV—VETERANS EDUCATIONAL ASSISTANCE

## SEC. 4001. SHORT TITLE.

This title may be cited as the "Post-9/11 Veterans Educational Assistance Act of 2008".

## SEC. 4002. FINDINGS.

Congress makes the following findings:

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many "G.I. Bills" enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

## SEC. 4003. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO SERVE AFTER SEPTEMBER 11, 2001.

(a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

## "CHAPTER 33—POST-9/11 EDUCATIONAL ASSISTANCE

## "SUBCHAPTER I—DEFINITIONS

"Sec.

"3301. Definitions.

## "SUBCHAPTER II—EDUCATIONAL ASSISTANCE

"3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.

"3312. Educational assistance: duration.

"3313. Educational assistance: amount; payment.

"3314. Tutorial assistance.

"3315. Licensure and certification tests.

"3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service.

"3317. Public-private contributions for additional educational assistance.

"3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.

## "SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

"3321. Time limitation for use of and eligibility for entitlement.

"3322. Bar to duplication of educational assistance benefits.

"3323. Administration.

"3324. Allocation of administration and costs.

“SUBCHAPTER I—DEFINITIONS

“§ 3301. Definitions

“In this chapter:

“(1) The term ‘active duty’ has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b) of this title):

“(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A) of this title.

“(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

“(2) The term ‘entry level and skill training’ means the following:

“(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

“(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called ‘A’ School).

“(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

“(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

“(E) In the case of members of the Coast Guard, Basic Training.

“(3) The term ‘program of education’ has the meaning the meaning given such term in section 3002 of this title, except to the extent otherwise provided in section 3313 of this title.

“(4) The term ‘Secretary of Defense’ has the meaning given such term in section 3002 of this title.

“SUBCHAPTER II—EDUCATIONAL ASSISTANCE

“§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

“(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

“(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

“(1) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty; or

“(ii) is discharged or released from active duty as described in subsection (c).

“(2) An individual who—

“(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

“(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

“(3) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 36 months; or

“(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

“(4) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 30 months; or

“(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

“(5) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 24 months; or

“(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

“(6) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 18 months; or

“(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

“(7) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 12 months; or

“(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

“(8) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 6 months; or

“(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

“(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

“(1) A discharge from active duty in the Armed Forces with an honorable discharge.

“(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

“(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

“(4) A discharge or release from active duty in the Armed Forces for—

“(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

“(B) hardship; or

“(C) a physical or mental condition that was not characterized as a disability and did not result from the individual’s own willful misconduct but did interfere with the individual’s performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

“(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual’s entitlement to educational assistance under this chapter is based:

“(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

“(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

“(3) A period of service that is terminated because of a defective enlistment and induction based on—

“(A) the individual’s being a minor for purposes of service in the Armed Forces;

“(B) an erroneous enlistment or induction; or

“(C) a defective enlistment agreement.

“(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of such subsection.

“§ 3312. Educational assistance: duration

“(a) IN GENERAL.—Subject to section 3695 of this title and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 of this title equal to 36 months.

“(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 of this title by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2) of this title.

“(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—(1) Any payment of educational assistance described in paragraph (2) shall not—

“(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

“(B) be counted against the aggregate period for which section 3695 of this title limits the individual’s receipt of educational assistance under this chapter.

“(2) Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

“(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

“(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

“(B) failed to receive credit or lost training time toward completion of the individual’s approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual’s course pursuit.

“(3) The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

**“§ 3313. Educational assistance: amount; payment**

“(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual’s subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

“(b) APPROVED PROGRAMS OF EDUCATION.—A program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f) of this title) and is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned).

“(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

“(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2) of this title, amounts as follows:

“(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

“(B) A monthly stipend in an amount as follows:

“(i) For each month the individual pursues the program of education, other than a program of education offered through distance learning, a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

“(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

“(I) \$1,000, multiplied by

“(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

“(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3) of this title, amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4) of this title, amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5) of this title, amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6) of this title, amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8) of this title, amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(d) FREQUENCY OF PAYMENT.—(1) Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(2) Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

“(3) The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

“(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

“(2) The amount of educational assistance payable under this chapter to an individual

pursuing a program of education while on active duty is the lesser of—

“(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

“(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1) of this title.

“(3) Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

“(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

“(2) The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

“(A) The amount equal to the lesser of—

“(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

“(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

“(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

“(3) Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

“(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

“(B) the number of course hours for full-time pursuit of such program of education.

“(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2) and (f)(2)(A) shall be paid directly to the educational institution concerned.

“(h) ESTABLISHED CHARGES DEFINED.—(1) In this section, the term ‘established charges’, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

“(2) Established charges shall be determined for purposes of this subsection on the following basis:

“(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

“(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

**“§ 3314. Tutorial assistance**

“(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title.

“(b) CONDITIONS.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

“(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

“(A) such benefits are essential to correct a deficiency of the individual in such course; and

“(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

“(c) AMOUNT.—(1) The amount of benefits described in subsection (a) that are payable under this section may not exceed \$100 per month, for a maximum of 12 months, or until a maximum of \$1,200 is utilized.

“(2) The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313 of this title.

“(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

**“§ 3315. Licensure and certification tests**

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b) of this title.

“(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

“(1) \$2,000; or

“(2) the fee charged for the test.

“(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

**“§ 3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service**

“(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—(1) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

“(2) The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic edu-

ational assistance providable under section 3015(d)(1) of this title at the time of the increase under paragraph (1).

“(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—(1) The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30 of this title. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

“(2) Eligibility for supplement educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30 of this title, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 of this title shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

“(3) The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational payable under section 3022 of this title.

“(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

**“§ 3317. Public-private contributions for additional educational assistance**

“(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313 of this title), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

“(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the ‘Yellow Ribbon G.I. Education Enhancement Program’.

“(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

“(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

“(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

“(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

“(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

“(d) MATCHING CONTRIBUTIONS.—(1) In instances where the educational assistance provided an individual under section 3313(c)(1)(A) of this title does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining

costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

“(2) Amounts available to the Secretary under section 3324(b) of this title for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

“(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

**“§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education**

“(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of \$500.

“(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

“(1) who resides in a highly rural area (as determined by the Bureau of the Census); and

“(2) who—

“(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

“(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

“(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

“(1) DD Form 214, Certification of Release or Discharge from Active Duty.

“(2) The most recent Federal income tax return.

“(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

“(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

“(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.”

**“SUBCHAPTER III—ADMINISTRATIVE PROVISIONS**

**“§ 3321. Time limitation for use of and eligibility for entitlement**

“(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

“(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3031 of this title shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 of this title with respect to the running of the 10-year period described in section 3031(a) of this title.

“(2) Section 3031(f) of this title shall apply with respect to the termination of an individual’s entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual’s entitlement to educational assistance under chapter 30 of this title, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 of this title shall be deemed to be a reference to 3312 of this title.

“(3) For purposes of subsection (a), an individual’s last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2) of this title.

**“§ 3322. Bar to duplication of educational assistance benefits**

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

“(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an educational loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

“(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

“(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 3303(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

**“§ 3323. Administration**

“(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) of this title shall apply to the provision of educational assistance under this chapter.

“(2) In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term ‘eligible veteran’ shall be deemed to refer to an individual entitled to educational assistance under this chapter.

“(3) In applying section 3474 of this title to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term ‘educational assistance allowance’ shall be deemed to refer to educational assistance payable under section 3313 of this title.

“(4) In applying section 3482(g) of this title to an individual entitled to educational assistance

under this chapter for purposes of this section—

“(A) the first reference to the term ‘educational assistance allowance’ in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313 of this title; and

“(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with ‘equipment’.

“(b) INFORMATION ON BENEFITS.—(1) The Secretary of Veterans Affairs shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly prescribe in regulations.

“(2) The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102 of this title.

“(3) The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

“(c) REGULATIONS.—(1) The Secretary shall prescribe regulations for the administration of this chapter.

“(2) Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

**“§ 3324. Allocation of administration and costs**

“(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

“(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.”

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

**“33. Post-9/11 Educational Assistance 3301”.**

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by inserting “33,” after “32,”; and

(ii) in subsection (c), by striking “both the program established by this chapter and the program established by chapter 106 of title 10” and inserting “two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10”.

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

“(4) Chapters 30, 32, 33, 34, 35, and 36 of this title.”

(C) Section 16163(e) of title 10, United States Code, is amended by inserting “33,” after “32,”.

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting “33,” after “32,” each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690(b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking “or 32” and inserting “32, or 33”.

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of August 1, 2009—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual’s election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title (as so added), or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

(ii) the fraction—

(I) the numerator of which is—

(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

(II) the denominator of which is 36 months.

(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALTY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2009.

**SEC. 4004. INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL.**

(a) EDUCATIONAL ASSISTANCE BASED ON THREE-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (a)(1) of section 3015 of title 38, United States Code, is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

“(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,321; and”;

(2) by redesignating subparagraph (D) as subparagraph (B).

(b) EDUCATIONAL ASSISTANCE BASED ON TWO-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (b)(1) of such section is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

“(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,073; and”;

(2) by redesignating subparagraph (D) as subparagraph (B).

(c) MODIFICATION OF MECHANISM FOR COST-OF-LIVING ADJUSTMENTS.—Subsection (h)(1) of such section is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

“(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

“(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on August 1, 2008.

(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.

**SEC. 4005. MODIFICATION OF AMOUNT AVAILABLE FOR REIMBURSEMENT OF STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION BENEFITS.**

Section 3674(a)(4) of title 38, United States Code, is amended by striking “may not exceed” and all that follows through the end and inserting “shall be \$19,000,000.”.

**TITLE V—EMERGENCY UNEMPLOYMENT COMPENSATION**

**FEDERAL-STATE AGREEMENTS**

SEC. 5001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of

the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 5002 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

#### EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

SEC. 5002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

#### (b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

#### (c) SPECIAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, if, at the time that the individual's account is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), then, such account shall be augmented by an amount equal to the amount originally established in such account (as determined under subsection (b)(1)).

(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

(i) were applied by substituting "4" for "5" each place it appears; and

(ii) did not include the requirement under paragraph (1)(A); or

(C) such a period would then be in effect for such State under such Act if—

(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

(ii) such section 203(f)—

(I) were applied by substituting "6.0" for "6.5" in paragraph (1)(A)(i); and

(II) did not include the requirement under paragraph (1)(A)(ii).

#### PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 5003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

#### FINANCING PROVISIONS

SEC. 5004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

#### FRAUD AND OVERPAYMENTS

SEC. 5005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such non-disclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

#### (c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

#### DEFINITIONS

SEC. 5006. In this title, the terms "compensation", "regular compensation", "extended compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

## APPLICABILITY

SEC. 5007. (a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending on or before March 31, 2009.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 5002 as of the last day of the last week (as determined in accordance with the applicable State law) ending on or before March 31, 2009, emergency unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such last day for which the individual meets the eligibility requirements of this title.

(2) LIMIT ON AUGMENTATION.—If the account of an individual is exhausted after the last day of such last week (as so determined), then section 5002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

(3) LIMIT ON COMPENSATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 30, 2009.

## TITLE VI—OTHER HEALTH MATTERS

SEC. 6001. (a) MORATORIA ON CERTAIN MEDICAID REGULATIONS.—

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110-28.—Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28) is amended—

(A) by striking “prior to the date that is 1 year after the date of enactment of this Act” and inserting “prior to April 1, 2009”;

(B) in subparagraph (A), by inserting after “Federal Regulations”) the following: “or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748)”;

(C) in subparagraph (C), by inserting before the period at the end the following: “, including the proposed regulation published on May 23, 2007 (72 Federal Register 28930)”.

(2) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110-173.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is amended—

(A) by striking “June 30, 2008” and inserting “April 1, 2009”;

(B) by inserting “, including the proposed regulation published on August 13, 2007 (72 Federal Register 45201),” after “rehabilitation services”;

(C) by inserting “, including the final regulation published on December 28, 2007 (72 Federal Register 73635),” after “school-based transportation”.

(3) MORATORIUM ON INTERIM FINAL MEDICAID REGULATION RELATING TO OPTIONAL CASE MANAGEMENT AND TARGETED CASE MANAGEMENT SERVICES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to the interim final regulation relating to optional State plan case management services and targeted case manage-

ment services under the Medicaid program published on December 4, 2007 (72 Federal Register 68077) in its entirety.

(4) ADDITIONAL MORATORIA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to a provision described in subparagraph (B) or (C) if such restrictions are more restrictive in any aspect than those applied to the respective provision as of the date specified in subparagraph (D) for such provision.

(B) PROPOSED REGULATION RELATING TO REDEFINITION OF MEDICAID OUTPATIENT HOSPITAL SERVICES.—The provision described in this subparagraph is the proposed regulation relating to clarification of outpatient clinic and hospital facility services definition and upper payment limit under the Medicaid program published on September 28, 2007 (72 Federal Register 55158) in its entirety.

(C) PORTION OF PROPOSED REGULATION RELATING TO MEDICAID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9685) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portions of such regulation as relate to the following:

(I) REDUCTION IN THRESHOLD.—The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109-171).

(D) DATE SPECIFIED.—The date specified in this subparagraph for the provision described in—

(i) subparagraph (B) is September 27, 2007; or

(ii) subparagraph (C) is February 21, 2008.

(b) RESTORATION OF ACCESS TO NOMINAL DRUG PRICING FOR CERTAIN CLINICS AND HEALTH CENTERS.—

(1) IN GENERAL.—Section 1927(c)(1)(D) of the Social Security Act (42 U.S.C. §1396r-8(c)(1)(D)), as added by section 6001(d)(2) of the Deficit Reduction Act of 2005 (Public Law 109-171), is amended—

(A) in clause (i)—

(i) by redesignating subclause (IV) as subclause (VI); and

(ii) by inserting after subclause (III) the following:

“(IV) An entity that—

“(aa) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Act or is State-owned or operated; and

“(bb) would be a covered entity described in section 340(B)(a)(4) of the Public Health Service Act insofar as the entity provides

the same type of services to the same type of populations as a covered entity described in such section provides, but does not receive funding under a provision of law referred to in such section.

“(V) A public or nonprofit entity, or an entity based at an institution of higher learning whose primary purpose is to provide health care services to students of that institution, that provides a service or services described under section 1001(a) of the Public Health Service Act.”; and

(B) by adding at the end the following new clause:

“(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter any existing statutory or regulatory prohibition on services with respect to an entity described in subclause (IV) or (V) of clause (i), including the prohibition set forth in section 1008 of the Public Health Service Act.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendment made by section 6001(d)(2) of the Deficit Reduction Act of 2005.

(c) ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.—

(1) ADDITION OF AUTHORITY.—Title XIX of the Social Security Act is amended by inserting after section 1939 the following new section:

“ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS  
“SEC. 1940. (a) IMPLEMENTATION.—

“(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

“(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall—

“(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

“(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

“(3) PHASE-IN.—

“(A) IN GENERAL.—

“(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

“(ii) IMPLEMENTATION IN OTHER STATES.—The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

“(I) 12.5 percent by the end of fiscal year 2009.

“(II) 25 percent by the end of fiscal year 2010.

“(III) 50 percent by the end of fiscal year 2011.

“(IV) 75 percent by the end of fiscal year 2012.

“(V) 100 percent by the end of fiscal year 2013.

“(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

“(C) STATES SPECIFIED.—The States specified in this subparagraph are California, New York, and New Jersey.

“(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

“(4) EXEMPTION OF TERRITORIES.—This section shall only apply to the 50 States and the District of Columbia.

“(b) ASSET VERIFICATION PROGRAM.—

“(1) IN GENERAL.—For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

“(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act of 1978 but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

“(B) uses the authorization provided under subparagraph (A) to verify the financial resources of such applicant or recipient (and such other person, as applicable), in order to determine or redetermine the eligibility of such applicant or recipient for medical assistance under the State plan.

“(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

“(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act of 1978, an authorization provided to a State under subsection (b)(1)(A) shall remain effective until the earliest of—

“(1) the rendering of a final adverse decision on the applicant’s application for medical assistance under the State’s plan under this title;

“(2) the cessation of the recipient’s eligibility for such medical assistance; or

“(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1)(A), as applicable) of the authorization, in a written notification to the State.

“(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

“(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

“(2) The certification requirements of section 1103(b) of the Right to Financial Privacy

Act of 1978 shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

“(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act of 1978 and of section 1102 of such Act, relating to a reasonable description of financial records.

“(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

“(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1)(A), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

“(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

“(h) TECHNICAL ASSISTANCE.—The Secretary shall provide States with technical assistance to aid in implementation of an asset verification program under this section.

“(i) REPORTS.—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

“(j) TREATMENT OF PROGRAM EXPENSES.—Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.”

(2) STATE PLAN REQUIREMENTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69) by striking “and” at the end;

(B) in paragraph (70) by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (70), as so amended, the following new paragraph:

“(71) provide that the State will implement an asset verification program as required under section 1940.”

(3) WITHHOLDING OF FEDERAL MATCHING PAYMENTS FOR NONCOMPLIANT STATES.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (22) by striking “or” at the end;

(B) in paragraph (23) by striking the period at the end and inserting “; or”; and

(C) by adding after paragraph (23) the following new paragraph:

“(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical

assistance for individuals subject to asset verification under such section, unless—

“(A) the State demonstrates to the Secretary’s satisfaction that the State made a good faith effort to comply;

“(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

“(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.”

(4) REPEAL.—Section 4 of Public Law 110–90 is repealed.

SEC. 6002. LIMITATION ON MEDICARE EXCEPTION TO THE PROHIBITION ON CERTAIN PHYSICIAN REFERRALS FOR HOSPITALS.—

(a) IN GENERAL.—Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(C) in the case where the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).”;

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.”; and

(3) by adding at the end the following new subsection:

“(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.—

“(1) REQUIREMENTS DESCRIBED.—For purposes of subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

“(A) PROVIDER AGREEMENT.—The hospital had—

“(i) physician ownership on September 1, 2008; and

“(ii) a provider agreement under section 1866 in effect on such date.

“(B) LIMITATION ON EXPANSION OF FACILITY CAPACITY.—Except as provided in paragraph (3), the number of operating rooms, procedure rooms, and beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms, procedure rooms, and beds as of such date.

“(C) PREVENTING CONFLICTS OF INTEREST.—

“(i) The hospital submits to the Secretary an annual report containing a detailed description of—

“(I) the identity of each physician owner and any other owners of the hospital; and

“(II) the nature and extent of all ownership interests in the hospital.

“(ii) The hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—

“(I) the ownership interest of such referring physician in the hospital; and

“(II) if applicable, any such ownership interest of the treating physician.

“(iii) The hospital does not condition any physician ownership interests either directly or indirectly on the physician owner making or influencing referrals to the hospital or

otherwise generating business for the hospital.

“(iv) The hospital discloses the fact that the hospital is partially owned by physicians—

“(I) on any public website for the hospital; and

“(II) in any public advertising for the hospital.

“(D) ENSURING BONA FIDE INVESTMENT.—

“(i) Physician owners in the aggregate do not own more than the greater of—

“(I) 40 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital; or

“(II) the percentage of such total value determined on the date of enactment of this subsection.

“(ii) Any ownership or investment interests that the hospital offers to a physician owner are not offered on more favorable terms than the terms offered to a person who is not a physician owner.

“(iii) The hospital (or any investors in the hospital) does not directly or indirectly provide loans or financing for any physician owner investments in the hospital.

“(iv) The hospital (or any investors in the hospital) does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any individual physician owner or group of physician owners that is related to acquiring any ownership interest in the hospital.

“(v) Investment returns are distributed to each investor in the hospital in an amount that is directly proportional to the ownership interest of such investor in the hospital.

“(vi) Physician owners do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other investors in the hospital or located near the premises of the hospital.

“(vii) The hospital does not offer a physician owner the opportunity to purchase or lease any property under the control of the hospital or any other investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner.

“(E) PATIENT SAFETY.—

“(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient—

“(I) the hospital discloses such fact to a patient; and

“(II) following such disclosure, the hospital receives from the patient a signed acknowledgment that the patient understands such fact.

“(ii) The hospital has the capacity to—

“(I) provide assessment and initial treatment for patients; and

“(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.

“(F) LIMITATION ON APPLICATION TO CERTAIN CONVERTED FACILITIES.—The hospital was not converted from an ambulatory surgical center to a hospital on or after the date of enactment of this subsection.

“(2) PUBLICATION OF INFORMATION REPORTED.—The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(C)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.

“(3) EXCEPTION TO PROHIBITION ON EXPANSION OF FACILITY CAPACITY.—

“(A) PROCESS.—

“(i) ESTABLISHMENT.—The Secretary shall establish and implement a process under

which an applicable hospital (as defined in subparagraph (E)) may apply for an exception from the requirement under paragraph (1)(B).

“(ii) OPPORTUNITY FOR COMMUNITY INPUT.—The process under clause (i) shall provide individuals and entities in the community that the applicable hospital applying for an exception is located with the opportunity to provide input with respect to the application.

“(iii) TIMING FOR IMPLEMENTATION.—The Secretary shall implement the process under clause (i) on November 1, 2009.

“(iv) REGULATIONS.—Not later than November 1, 2009, the Secretary shall promulgate regulations to carry out the process under clause (i).

“(B) FREQUENCY.—The process described in subparagraph (A) shall permit an applicable hospital to apply for an exception up to once every 2 years.

“(C) PERMITTED INCREASE.—

“(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), an applicable hospital granted an exception under the process described in subparagraph (A) may increase the number of operating rooms, procedure rooms, and beds of the applicable hospital above the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital (or, if the applicable hospital has been granted a previous exception under this paragraph, above the number of operating rooms, procedure rooms, and beds of the hospital after the application of the most recent increase under such an exception).

“(ii) LIFETIME 100 PERCENT INCREASE LIMITATION.—The Secretary shall not permit an increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital under clause (i) to the extent such increase would result in the number of operating rooms, procedure rooms, and beds of the applicable hospital exceeding 200 percent of the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital.

“(iii) BASELINE NUMBER OF OPERATING ROOMS, PROCEDURE ROOMS, AND BEDS.—In this paragraph, the term ‘baseline number of operating rooms, procedure rooms, and beds’ means the number of operating rooms, procedure rooms, and beds of the applicable hospital as of the date of enactment of this subsection.

“(D) INCREASE LIMITED TO FACILITIES ON THE MAIN CAMPUS OF THE HOSPITAL.—Any increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital pursuant to this paragraph may only occur in facilities on the main campus of the applicable hospital.

“(E) APPLICABLE HOSPITAL.—In this paragraph, the term ‘applicable hospital’ means a hospital—

“(i) that is located in a county in which the percentage increase in the population during the most recent 5-year period (as of the date of the application under subparagraph (A)) is at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by Bureau of the Census;

“(ii) whose annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX is equal to or greater than the average percent with respect to such admissions for all hospitals located in the county in which the hospital is located;

“(iii) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries;

“(iv) that is located in a State in which the average bed capacity in the State is less than the national average bed capacity; and

“(v) that has an average bed occupancy rate that is greater than the average bed occupancy rate in the State in which the hospital is located.

“(F) PROCEDURE ROOMS.—In this subsection, the term ‘procedure rooms’ includes rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed, except such term shall not include emergency rooms or departments (exclusive of rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed).

“(G) PUBLICATION OF FINAL DECISIONS.—Not later than 60 days after receiving a complete application under this paragraph, the Secretary shall publish in the Federal Register the final decision with respect to such application.

“(H) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the process under this paragraph (including the establishment of such process).

“(4) COLLECTION OF OWNERSHIP AND INVESTMENT INFORMATION.—For purposes of subparagraphs (A)(i) and (D)(i) of paragraph (1), the Secretary shall collect physician ownership and investment information for each hospital.

“(5) PHYSICIAN OWNER DEFINED.—For purposes of this subsection, the term ‘physician owner’ means a physician (or an immediate family member of such physician) with a direct or an indirect ownership interest in the hospital.”.

(b) ENFORCEMENT.—

(1) ENSURING COMPLIANCE.—The Secretary of Health and Human Services shall establish policies and procedures to ensure compliance with the requirements described in subsection (i)(1) of section 1877 of the Social Security Act, as added by subsection (a)(3), beginning on the date such requirements first apply. Such policies and procedures may include unannounced site reviews of hospitals.

(2) AUDITS.—Beginning not later than January 1, 2010, the Secretary of Health and Human Services shall conduct audits to determine if hospitals violate the requirements referred to in paragraph (1).

SEC. 6003. Medicare Improvement Fund.—

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

“MEDICARE IMPROVEMENT FUND

“SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the ‘Fund’) which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

“(b) FUNDING.—

“(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal year 2014, \$3,340,000,000.

“(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines appropriate.

“(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds

from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.”.

SEC. 6004. MORATORIUM ON AUGUST 17, 2007 CMS DIRECTIVE. Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action to give effect to any or all components of the State Health Official Letter 07-001, dated August 17, 2007, issued by the Director of the Center for Medicaid and State Operations in the Centers for Medicare & Medicaid Services regarding certain requirements under the State Children’s Health Insurance Program (CHIP) relating to the prevention of the substitution of health benefits coverage for children (commonly referred to as “crowd-out”) and the enforcement of medical support orders (or to any similar administrative actions that reflect the same or similar policies set forth in such letter). Any change made on or after August 17, 2007, to a Medicaid or CHIP State plan or waiver to implement, conform to, or otherwise adhere to the requirements or policies in such letter shall not apply prior to April 1, 2009.

SEC. 6005. ADJUSTMENT TO PAQI FUND. Section 1848(1)(2) of the Social Security Act (42 U.S.C. 1395w-4(1)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), is amended—

(1) in subparagraph (A)(i)—  
(A) in subclause (III), by striking “\$4,960,000,000” and inserting “\$3,940,000,000”; and

(B) by adding at the end the following new subclause:

“(IV) For expenditures during 2014, an amount equal to \$3,750,000,000.”;

(2) in subparagraph (A)(ii), by adding at the end the following new subclause:

“(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.”; and

(3) in subparagraph (B)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:

“(iv) 2014 for payment with respect to physicians’ services furnished during 2014.”.

## TITLE VII—ACCOUNTABILITY AND COMPETITION IN GOVERNMENT CONTRACTING

### CHAPTER 1—CLOSE THE CONTRACTOR FRAUD LOOPHOLE

#### SHORT TITLE

SEC. 7101. This chapter may be cited as the “Close the Contractor Fraud Loophole Act”.

#### REVISION OF THE FEDERAL ACQUISITION REGULATION

SEC. 7102. The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007-006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

#### DEFINITION

SEC. 7103. In this chapter, the term “covered contract” means any contract in an amount greater than \$5,000,000 and more than 120 days in duration.

### CHAPTER 2—GOVERNMENT FUNDING TRANSPARENCY

#### SHORT TITLE

SEC. 7201. This chapter may be cited as the “Government Funding Transparency Act of 2008”.

#### FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN RECIPIENTS OF FEDERAL AWARDS

SEC. 7202. (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109-282; 31 U.S.C. 6101 note) is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following new subparagraph:

“(F) the names and total compensation of the five most highly compensated officers of the entity if—

“(i) the entity in the preceding fiscal year received—

“(I) 80 percent or more of its annual gross revenues in Federal awards; and

“(II) \$25,000,000 or more in annual gross revenues from Federal awards; and

“(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.”.

(b) REGULATIONS REQUIRED.—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter. Such regulations shall include a definition of “total compensation” that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation).

#### TITLE VIII

### GENERAL PROVISIONS—THIS ACT

#### AVAILABILITY OF FUNDS

SEC. 8001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

#### EMERGENCY DESIGNATION

SEC. 8002. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

#### AVOIDANCE OF U.S. PAYROLL TAX CONTRIBUTIONS

SEC. 8003. None of the funds in this Act may be used by any Federal agency for a contract with any United States corporation which hires United States employees through foreign offshore subsidiaries for purposes of avoiding United States payroll tax contributions for such employees.

#### EXPLANATORY STATEMENT

SEC. 8004. The explanatory statement printed in the Senate section of the Congressional Record on May 19, 2008, submitted by the Chairman of the Committee on Appropriations of the Senate regarding the amendments of the Senate to the House amendments to the Senate amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the

fiscal year ending September 30, 2008, and for other purposes, submitted by the Chairman of the Committee on Appropriations of the Senate, shall have the same effect with respect to the allocation of funds and implementation of titles I through XIII of this Act as if it were a report to the Senate on a bill reported by the Committee on Appropriations.

#### SHORT TITLE

SEC. 8005. This Act may be cited as the “Supplemental Appropriations Act, 2008”.

**SA 4804.** Mr. REID proposed an amendment to amendment SA 4803 proposed by Mr. REID to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; as follows:

Strike all after the word “TITLE” on page 2, line 1, and insert the following:

#### TITLE I

### OTHER SECURITY, MILITARY CONSTRUCTION, AND INTERNATIONAL MATTERS

#### CHAPTER 1

### DEPARTMENT OF AGRICULTURE

#### FOREIGN AGRICULTURAL SERVICE

#### PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for “Public Law 480 Title II Grants”, \$850,000,000, to remain available until expended.

For an additional amount for “Public Law 480 Title II Grants”, \$395,000,000, to become available on October 1, 2008, and to remain available until expended.

#### CHAPTER 2

### DEPARTMENT OF JUSTICE

#### GENERAL ADMINISTRATION

#### OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, \$4,000,000, to remain available until September 30, 2009.

#### LEGAL ACTIVITIES

#### SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for “Salaries and Expenses, General Legal Activities”, \$1,648,000, to remain available until September 30, 2009.

#### SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for “Salaries and Expenses, United States Attorneys”, \$5,000,000, to remain available until September 30, 2009.

#### UNITED STATES MARSHALS SERVICE

#### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$18,621,000, to remain available until September 30, 2009.

#### FEDERAL BUREAU OF INVESTIGATION

#### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$164,965,000, to remain available until September 30, 2009.

For an additional amount for “Salaries and Expenses”, \$82,600,000 to become available on October 1, 2008 and to remain available until September 30, 2009.

#### DRUG ENFORCEMENT ADMINISTRATION

#### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$22,666,000, to remain available until September 30, 2009.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND  
EXPLOSIVES

## SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$4,000,000, to remain available until September 30, 2009.

## FEDERAL PRISON SYSTEM

## SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$9,100,000, to remain available until September 30, 2009.

## CHAPTER 3

## MILITARY CONSTRUCTION

## MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construction, Army”, \$1,170,200,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, \$1,033,000,000 shall remain available until September 30, 2009, and \$137,200,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

MILITARY CONSTRUCTION, NAVY AND MARINE  
CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$300,084,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, \$270,785,000 shall remain available until September 30, 2009, and \$29,299,000 shall remain available until September 30, 2012.

## MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$361,900,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, \$324,300,000 shall remain available until September 30, 2009, and \$37,600,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

## MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for “Military Construction, Defense-Wide”, \$27,600,000, to remain available until September 30, 2009: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, NAVY AND  
MARINE CORPS

For an additional amount for “Family Housing Construction, Navy and Marine Corps”, \$11,766,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law.

DEPARTMENT OF DEFENSE BASE CLOSURE  
ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$1,202,886,000, to remain available until expended.

## DEPARTMENT OF VETERANS AFFAIRS

## DEPARTMENTAL ADMINISTRATION

## GENERAL OPERATING EXPENSES

For an additional amount for “General Operating Expenses”, \$100,000,000, to remain available until expended.

## INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for “Information Technology Systems”, \$20,000,000, to remain available until expended.

## CONSTRUCTION, MAJOR PROJECTS

For an additional amount for “Construction, Major Projects”, \$437,100,000, to remain available until expended, which shall be for acceleration and completion of planned major construction of Level I polytrauma rehabilitation centers as identified in the Department of Veterans Affairs’ Five Year Capital Plan: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Army”, there is hereby appropriated an additional \$70,600,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Army: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1302. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Navy and Marine Corps”, there is hereby appropriated an additional \$89,820,000, to remain available until September 30, 2012, for the acceleration and completion of child development and youth center construction as proposed in the fiscal year 2009 budget request for the Department of the Navy: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1303. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Air Force”, there is hereby appropriated an additional \$8,100,000, to remain available until September 30, 2012, for the acceleration and completion of child development center construction as proposed in the fiscal year 2009 budget request for the Department of the Air Force: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction not otherwise authorized by law.

SEC. 1304. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Army”, there is hereby appropriated an additional \$200,000,000, to remain available until September 30, 2012, to accelerate barracks improvements at Department of the Army installations: *Provided*, That such funds may be

obligated and expended to carry out planning and design and barracks construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for barracks construction prior to obligation.

SEC. 1305. COLLECTION OF CERTAIN INDEBTEDNESS OF MEMBERS OF THE ARMED FORCES AND VETERANS WHO DIE OF INJURY INCURRED OR AGGRAVATED IN SERVICE IN THE LINE OF DUTY IN A COMBAT ZONE. (a) LIMITATION ON AUTHORITY.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5302 the following new section:

“§ 5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone

“(a) LIMITATION ON AUTHORITY.—The Secretary may not collect all or any part of an amount owed to the United States by a member of the Armed Forces or veteran described in subsection (b) under any program under the laws administered by the Secretary, other than a program referred to in subsection (c), if the Secretary determines that termination of collection is in the best interest of the United States.

“(b) COVERED INDIVIDUALS.—A member of the Armed Forces or veteran described in this subsection is any member or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) in a war or in combat against a hostile force during a period of hostilities (as that term is defined in section 1712A(a)(2)(B) of this title) after September 11, 2001.

“(c) INAPPLICABILITY TO HOUSING AND SMALL BUSINESS BENEFIT PROGRAMS.—The limitation on authority in subsection (a) shall not apply to any amounts owed the United States under any program carried out under chapter 37 of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 5302 the following new item:

“5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.”.

(b) EQUITABLE REFUND.—In any case where all or any part of an indebtedness of a covered individual, as described in section 5302A(a) of title 38, United States Code, as added by subsection (a)(1), was collected after September 11, 2001, and before the date of the enactment of this Act, and the Secretary of Veterans Affairs determines that such indebtedness would have been terminated had such section been in effect at such time, the Secretary may refund the amount so collected if the Secretary determines that the individual is equitably entitled to such refund.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to collections of indebtedness of members of the Armed Forces and veterans who die on or after September 11, 2001.

(d) SHORT TITLE.—This section may be cited as the “Combat Veterans Debt Elimination Act of 2008”.

## CHAPTER 4

SUBCHAPTER A—SUPPLEMENTAL  
APPROPRIATIONS FOR FISCAL YEAR 2008  
DEPARTMENT OF STATE  
ADMINISTRATION OF FOREIGN AFFAIRS  
DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, \$1,413,700,000, to remain available until September 30, 2009, of which \$212,400,000 for worldwide security protection is available until expended: *Provided*, That not more than \$1,095,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq: *Provided further*, That of the funds appropriated under this heading, not more than \$30,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Department of State: *Provided further*, That of the funds appropriated under this heading, up to \$5,000,000 shall be made available to establish a United States Consulate in Lhasa, Tibet: *Provided further*, That the Department of State shall not consent to the opening of a consular post in the United States by the People’s Republic of China until such time as a United States Consulate in Lhasa, Tibet is established.

OFFICE OF INSPECTOR GENERAL  
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of Inspector General”, \$12,500,000, to remain available until September 30, 2009: *Provided*, That \$2,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and up to \$5,000,000 may be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EDUCATIONAL AND CULTURAL EXCHANGE  
PROGRAMS

For an additional amount for “Educational and Cultural Exchange Programs”, \$10,000,000, to remain available until September 30, 2009, of which \$5,000,000 shall be for programs and activities in Africa, and \$5,000,000 shall be for programs and activities in the Western Hemisphere.

EMBASSY SECURITY, CONSTRUCTION, AND  
MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance”, \$76,700,000, to remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS  
CONTRIBUTIONS TO INTERNATIONAL  
ORGANIZATIONS

For an additional amount for “Contributions to International Organizations”, \$66,000,000, to remain available until September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL  
PEACEKEEPING ACTIVITIES

For an additional amount for “Contributions for International Peacekeeping Activities”, \$383,600,000, to remain available until September 30, 2009, of which \$333,600,000 shall be made available for the United Nations-African Union Hybrid Mission in Darfur.

## RELATED AGENCY

## BROADCASTING BOARD OF GOVERNORS

## INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations”, \$3,000,000, to remain available until September 30, 2009.

## BILATERAL ECONOMIC ASSISTANCE

## FUNDS APPROPRIATED TO THE PRESIDENT

## INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for “International Disaster Assistance”, \$240,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$149,500,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading, not more than \$25,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Agency for International Development.

OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT  
OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$4,000,000, to remain available until September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE  
ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund”, \$1,962,500,000, to remain available until September 30, 2009, of which not more than \$398,000,000 may be made available for assistance for Iraq, \$150,000,000 shall be made available for assistance for Jordan to meet the needs of Iraqi refugees, and up to \$53,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law: *Provided*, That not more than \$200,000,000 of the funds appropriated under this heading in this subchapter shall be made available for assistance for the West Bank: *Provided further*, That funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the funds made available under this heading for energy-related assistance for North Korea may be made available to support the goals of the Six Party Talks Agreements after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements.

DEPARTMENT OF STATE  
DEMOCRACY FUND

For an additional amount for “Democracy Fund”, \$76,000,000, to remain available until September 30, 2009, of which \$75,000,000 shall be for democracy programs in Iraq and \$1,000,000 shall be for democracy programs in Chad.

INTERNATIONAL NARCOTICS CONTROL AND LAW  
ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$520,000,000, to remain available until September 30, 2009, of which not more than \$25,000,000 shall be made available for security assistance for the West Bank: *Provided*, That of the funds appropriated under this heading, \$1,000,000 shall be made available for the Office of the United Nations High Commissioner for Human Rights in Mexico.

## MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$330,500,000, to remain available until expended.

UNITED STATES EMERGENCY REFUGEE AND  
MIGRATION ASSISTANCE FUND

For an additional amount for “United States Emergency Refugee and Migration Assistance Fund”, \$36,608,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM,  
DEMING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Deming and

Related Programs”, \$10,000,000, to remain available until September 30, 2009.

## MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT  
PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, \$10,000,000, to remain available until September 30, 2009.

SUBCHAPTER B—BRIDGE FUND  
APPROPRIATIONS FOR FISCAL YEAR 2009  
DEPARTMENT OF STATEADMINISTRATION OF FOREIGN AFFAIRS  
DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, \$652,400,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided*, That of the funds appropriated under this heading, \$78,400,000 is for worldwide security protection and shall remain available until expended: *Provided further*, That not more than \$500,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq.

OFFICE OF INSPECTOR GENERAL  
(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of Inspector General”, \$57,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009: *Provided*, That \$36,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight and up to \$5,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EMBASSY SECURITY, CONSTRUCTION, AND  
MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance”, \$41,300,000, which shall become available on October 1, 2008 and remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS  
CONTRIBUTIONS TO INTERNATIONAL  
ORGANIZATIONS

For an additional amount for “Contributions to International Organizations”, \$75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL  
PEACEKEEPING ACTIVITIES

For an additional amount for “Contributions for International Peacekeeping Activities”, \$150,500,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

## RELATED AGENCY

## BROADCASTING BOARD OF GOVERNORS

## INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations”, \$6,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

## BILATERAL ECONOMIC ASSISTANCE

## FUNDS APPROPRIATED TO THE PRESIDENT

## GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for “Global Health and Child Survival”, \$75,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, for programs to combat avian influenza.

## DEVELOPMENT ASSISTANCE

For an additional amount for “Development Assistance”, \$200,000,000, for assistance for developing countries to address the international food crisis notwithstanding any

other provision of law, which shall become available on October 1, 2008 and remain available through September 30, 2010: *Provided*, That such assistance should be carried out consistent with the purposes of section 103(a)(1) of the Foreign Assistance Act of 1961: *Provided further*, That not more than \$50,000,000 should be made available for local or regional purchase and distribution of food: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of such funds to alleviate hunger and malnutrition, including a list of those countries facing significant food shortages.

#### INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for “International Disaster Assistance”, \$200,000,000, which shall become available on October 1, 2008 and remain available until expended.

#### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$93,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

#### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

##### OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$1,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

#### OTHER BILATERAL ECONOMIC ASSISTANCE

##### ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund”, \$1,132,300,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than \$110,000,000 may be made available for assistance for Iraq, \$100,000,000 shall be made available for assistance for Jordan, not more than \$455,000,000 may be made available for assistance for Afghanistan, not more than \$150,000,000 may be made available for assistance for Pakistan, not more than \$150,000,000 shall be made available for assistance for the West Bank, and \$15,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law.

#### DEPARTMENT OF STATE

##### INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$151,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which not more than \$50,000,000 shall be made available for security assistance for the West Bank.

##### MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$350,000,000, which shall become available on October 1, 2008 and remain available until expended.

##### NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$4,500,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008 and remain available through September 30, 2009.

## MILITARY ASSISTANCE

### FUNDS APPROPRIATED TO THE PRESIDENT

#### FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for “Foreign Military Financing Program”, \$145,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009, of which \$100,000,000 shall be made available for assistance for Jordan: *Provided*, That section 3802(c) of title III, chapter 8 of Public Law 110-28 shall apply to funds made available under this heading for assistance for Lebanon.

#### PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, \$85,000,000, which shall become available on October 1, 2008 and remain available through September 30, 2009.

#### SUBCHAPTER C—GENERAL PROVISIONS—THIS CHAPTER

#### EXTENSION OF AUTHORITIES

SEC. 1401. Funds appropriated by this chapter may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Year 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

#### IRAQ

SEC. 1402. (a) ASSET TRANSFER AGREEMENT.—

(1) None of the funds appropriated by this chapter for infrastructure maintenance activities in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the Governments of the United States and Iraq have entered into, and are implementing, an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq.

(2) None of the funds appropriated by this chapter may be made available for the construction of prison facilities in Iraq.

(b) ANTI-CORRUPTION.—None of the funds appropriated by this chapter for rule of law programs in Iraq may be made available for assistance for the Government of Iraq until the Secretary of State certifies and reports to the Committees on Appropriations that a comprehensive anti-corruption strategy has been developed, and is being implemented, by the Government of Iraq, and the Secretary of State submits a list, in classified form if necessary, to the Committees on Appropriations of senior Iraqi officials who the Secretary has credible evidence to believe have committed corrupt acts.

(c) PROVINCIAL RECONSTRUCTION TEAMS.—None of the funds appropriated by this chapter for the operational or program expenses of Provincial Reconstruction Teams (PRTs) in Iraq may be made available until the Secretary of State submits a report to the Committees on Appropriations detailing—

(1) the strategy for the eventual winding down and close out of PRTs;

(2) anticipated costs associated with PRT operations, programs, and eventual winding down and close out, including security for PRT personnel and anticipated Government of Iraq contributions; and

(3) anticipated placement and cost estimates of future United States Consulates in Iraq.

(d) COMMUNITY STABILIZATION PROGRAM.—None of the funds appropriated by this chapter for the Community Stabilization Program in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that

the United States Agency for International Development is implementing recommendations contained in Office of Inspector General Audit Report No. E-267-08-001-P to ensure accountability of funds.

(e) MATCHING REQUIREMENT.—

(1) Notwithstanding any other provision of law, funds appropriated by this chapter for assistance for Iraq shall be made available only to the extent that the Government of Iraq matches such assistance on a dollar-for-dollar basis.

(2) Subsection (e)(1) shall not apply to funds made available for—

(A) grants and cooperative agreements for programs to promote democracy and human rights;

(B) the Community Action Program and other assistance through civil society organizations;

(C) humanitarian demining; or

(D) assistance for refugees, internally displaced persons, and civilian victims of the military operations.

(3) The Secretary of State shall certify to the Committees on Appropriations prior to the initial obligation of funds pursuant to this section that the Government of Iraq has committed to obligate matching funds on a dollar-for-dollar basis. The Secretary shall submit a report to the Committees on Appropriations not later than September 30, 2008 and 180 days thereafter, detailing the amounts of funds obligated and expended by the Government of Iraq to meet the requirements of this section.

(4) Not later than 45 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq since June 30, 2004, to assist Iraqi refugees in Syria, Jordan, and elsewhere, and the amount of such assistance the Government of Iraq plans to provide in fiscal year 2008. The Secretary shall work expeditiously with the Government of Iraq to establish an account within its annual budget sufficient to, at a minimum, match United States contributions on a dollar-for-dollar basis to organizations and programs for the purpose of assisting Iraqi refugees.

(f) VETTING.—Prior to the initial obligation of funds appropriated for assistance for Iraq in this chapter, the Secretary of State shall, in consultation with the heads of other Federal departments and agencies, take appropriate steps to ensure that such funds are not provided to or through any individual, private entity, or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, or engages in, terrorist activities.

(g) IRAQ RELIEF AND RECONSTRUCTION FUND.—

(1) Notwithstanding any other provision of law, the expired balances of funds appropriated or otherwise made available under the heading “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs shall be rescinded.

(2) None of the funds made available under the heading “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs may be reprogrammed for any purpose other than that previously notified to the Committees on Appropriations prior to April 30, 2008, and none of such funds may be made available to initiate any new projects or activities.

(3) Not later than 30 days after enactment of this Act, the Secretary of State shall report to the Committees on Appropriations on the balances of obligated funds referenced in subsection (g)(1), and estimates of the amount of funds required to close out ongoing projects or for outstanding claims.

## AFGHANISTAN

SEC. 1403. (a) ASSISTANCE FOR WOMEN AND GIRLS.—Funds appropriated by this chapter under the heading “Economic Support Fund” that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, through local Afghan provincial and municipal governments and Afghan civil society organizations and in a manner that emphasizes the participation of Afghan women and directly improves the economic, social and political status of Afghan women and girls.

(b) HIGHER EDUCATION.—Of the funds appropriated by this chapter under the heading “Economic Support Fund” that are made available for education programs in Afghanistan, not less than 50 percent shall be made available to support higher education and vocational training programs in law, accounting, engineering, public administration, and other disciplines necessary to rebuild the country, in which the participation of women is emphasized.

(c) CIVILIAN ASSISTANCE.—Of the funds appropriated by this chapter under the heading “Economic Support Fund” that are available for assistance for Afghanistan, not less than \$10,000,000 shall be made available for continued support of the United States Agency for International Development’s Afghan Civilian Assistance Program, and not less than \$2,000,000 shall be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund.

(d) ANTI-CORRUPTION.—Not later than 90 days after the enactment of this Act, the Secretary of State shall—

(1) submit a report to the Committees on Appropriations on actions being taken by the Government of Afghanistan to combat corruption within the national and provincial governments, including to remove and prosecute officials who have committed corrupt acts;

(2) submit a list to the Committees on Appropriations, in classified form if necessary, of senior Afghan officials who the Secretary has credible evidence to believe have committed corrupt acts; and

(3) certify and report to the Committees on Appropriations that effective mechanisms are in place to ensure that assistance to national government ministries and provincial governments will be properly accounted for.

## WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

## SEC. 1404. (a) ANNUAL WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (b), the President may waive in whole or in part, with respect to North Korea, the application of any sanction under section 102(b) of the Arms Export Control Act (22 U.S.C. 2799aa-1(b)), for the purpose of—

(A) assisting in the implementation and verification of the compliance by North Korea with its commitment, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula; and

(B) promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction and their delivery systems.

(2) DURATION OF WAIVER.—Any waiver issued under this subsection shall expire at the end of the calendar year in which it issued.

## (b) EXCEPTIONS.—

(1) LIMITED EXCEPTION RELATED TO CERTAIN SANCTIONS AND PROHIBITIONS.—The authority under subsection (a) shall not apply with re-

spect to a sanction or prohibition under subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines and certifies to the appropriate congressional committees that—

(A) all reasonable steps will be taken to assure that the articles or services exported or otherwise provided will not be used to improve the military capabilities of the armed forces of North Korea; and

(B) such waiver is in the national security interests of the United States.

(2) LIMITED EXCEPTION RELATED TO CERTAIN ACTIVITIES.—Unless the President determines and certifies to the appropriate congressional committees that using the authority under subsection (a) is vital to the national security interests of the United States, such authority shall not apply with respect to—

(A) an activity described in subparagraph (A) of section 102(b)(1) of the Arms Export Control Act that occurs after September 19, 2005, and before the date of the enactment of this Act;

(B) an activity described in subparagraph (C) of such section that occurs after September 19, 2005; or

(C) an activity described in subparagraph (D) of such section that occurs after the date of enactment of this Act.

(3) EXCEPTION RELATED TO CERTAIN ACTIVITIES OCCURRING AFTER DATE OF ENACTMENT.—The authority under subsection (a) shall not apply with respect to an activity described in subparagraph (A) or (B) of section 102(b)(1) of the Arms Export Control Act that occurs after the date of the enactment of this Act.

## (c) NOTIFICATIONS AND REPORTS.—

(1) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees in writing not later than 15 days before exercising the waiver authority under subsection (a).

(2) ANNUAL REPORT.—Not later than January 31, 2009, and annually thereafter, the President shall submit to the appropriate congressional committees a report that—

(A) lists all waivers issued under subsection (a) during the preceding year;

(B) describes in detail the progress that is being made in the implementation of the commitment undertaken by North Korea, in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula;

(C) discusses specifically any shortcomings in the implementation by North Korea of that commitment; and

(D) lists and describes the progress and shortcomings, in the preceding year, of all other programs promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

## MEXICO

SEC. 1405. (a) ASSISTANCE FOR MEXICO.—Of the funds appropriated in subchapter A under the heading “International Narcotics Control and Law Enforcement”, not more than \$350,000,000 may be made available for assistance for Mexico, only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That none of the funds made available under this section shall be made available

for budget support or as cash payments: *Provided further*, That none of the funds made available under this section shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the Mexican military and police forces that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for Mexico under the heading “International Narcotics Control and Law Enforcement” may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that:

(1) The Government of Mexico is—

(A) strengthening the legal authority and independence of the National Human Rights Commission;

(B) establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(C) establishing an independent mechanism, with representation from civil society, to monitor programs to combat drug trafficking and related violence and organized crime, judicial reform, anti-corruption, and rule of law activities to ensure due process and the protection of freedoms of expression, association, and assembly, and rights of privacy, in accordance with Mexican and international law;

(D) is enforcing the prohibition on the use of testimony obtained through torture or other ill-treatment in violation of Mexican and international law;

(E) is ensuring that the Mexican military justice system is transferring all cases involving allegations of human rights violations by military personnel to civilian prosecutors and judicial authorities, and that the armed forces are fully cooperating with civilian prosecutors and judicial authorities in prosecuting and punishing in civilian courts members of the armed forces who have been credibly alleged to have committed such violations; and

(F) is ensuring that federal and state police forces are fully cooperating with prosecutors and judicial authorities in prosecuting and punishing members of the police forces who have been credibly alleged to have committed violations of human rights.

(2) Civilian prosecutors and judicial authorities are investigating, prosecuting and punishing members of the Mexican military and police forces who have been credibly alleged to have committed human rights violations.

(c) EXCEPTION.—Notwithstanding subsection (b), of the funds made available for assistance for Mexico pursuant to this section, \$3,000,000 shall be made available for technical and other assistance to enable the Government of Mexico to implement a unified national registry of federal, state, and municipal police officers, and \$5,000,000 should be made available to the Bureau of Alcohol, Tobacco, Firearms and Explosives to deploy special agents in Mexico to support Mexican law enforcement agencies in tracing seized firearms and investigating firearms trafficking cases.

(d) REPORT.—The report required in subsection (b) shall include a description of actions taken with respect to each requirement specified in subsection (b) and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(e) NOTIFICATION.—Funds made available for Mexico in subchapter A shall be subject to the regular notification procedures of the

Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

(f) SPENDING PLAN.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for Mexico in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals, and anticipated results.

(g) CONSULTATION.—Not later than 90 days after the date of the enactment of this Act, and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with Mexican and internationally recognized human rights organizations on progress in meeting the requirements described in subsection (b).

#### CENTRAL AMERICA

SEC. 1406. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A under the headings “International Narcotics Control and Law Enforcement” and “Economic Support Fund”, not more than \$100,000,000 may be made available for assistance for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violence and organized crime, and for judicial reform, anti-corruption, and rule of law activities: *Provided*, That of the funds appropriated under the heading “Economic Support Fund”, \$40,000,000 shall be made available through the United States Agency for International Development for an Economic and Social Development Fund for Central America: *Provided further*, That of the funds made available pursuant to this section, \$5,000,000 shall be made available for assistance for Haiti and \$5,000,000 shall be made available for assistance for the Dominican Republic: *Provided further*, That of the funds made available pursuant to this section that are available for assistance for Guatemala, not less than \$1,000,000 shall be made available for a United States contribution to the International Commission Against Impunity in Guatemala: *Provided further*, That none of the funds shall be made available for budget support or as cash payments: *Provided further*, That, with the exception of the first and third provisos in this section, none of the funds shall be available for obligation until the Secretary of State determines and reports to the Committees on Appropriations that vetting procedures are in place to ensure that members and units of the military and police forces of the countries of Central America, Haiti and the Dominican Republic that receive assistance pursuant to this section have not been involved in human rights violations or corrupt acts.

(b) ALLOCATION OF FUNDS.—Twenty-five percent of the funds made available by subchapter A for assistance for the countries of Central America, Haiti and the Dominican Republic under the heading “International Narcotics Control and Law Enforcement” may be obligated only after the Secretary of State determines and reports to the Committees on Appropriations that the government of such country is—

(1) establishing a police complaints commission with authority and independence to receive complaints and carry out effective investigations;

(2) implementing reforms to improve the capacity and ensure the independence of the judiciary; and

(3) suspending, prosecuting and punishing members of the military and police forces

who have been credibly alleged to have committed violations of human rights and corrupt acts.

(c) REPORT.—The report required in subsection (b) shall include actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary for which the response or action taken has been inadequate.

(d) NOTIFICATION.—Funds made available for assistance for the countries of Central America, Haiti and the Dominican Republic in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

(e) SPENDING PLAN.—Not later than 45 days after enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for the countries of Central America, Haiti and the Dominican Republic in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, preventing corruption, and strengthening the rule of law, with concrete goals, actions to be taken, budget proposals and anticipated results.

(f) CONSULTATION.—Not later than 90 days after the date of enactment of this Act and every 120 days thereafter until September 30, 2010, the Secretary of State shall consult with internationally recognized human rights organizations, and human rights organizations in the countries of Central America, Haiti and the Dominican Republic receiving assistance pursuant to this section, on progress in meeting the requirements described in subsection (b).

(g) DEFINITION.—For the purposes of this section, the term “countries of Central America” means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

#### TECHNICAL PROVISIONS

SEC. 1407. (a) ADMINISTRATIVE EXPENSES.—Of the funds appropriated or otherwise made available under the heading “Economic Support Fund” by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161), up to \$7,800,000 may be made available, in addition to amounts otherwise available for such purposes, for administrative expenses of the United States Agency for International Development for alternative development programs in the Andean region of South America. These funds may be used to reimburse funds appropriated under the heading “Operating Expenses of the United States Agency for International Development” for obligations incurred for the purposes provided under this section prior to enactment of this Act.

(b) AUTHORITY.—Funds appropriated or otherwise made available by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161) under the heading “Economic Support Fund” that are available for a competitively awarded grant for nuclear security initiatives relating to North Korea shall be made available notwithstanding any other provision of law.

(c) EXTENSION OF AUTHORITY.—Not more than \$1,350,000 of the funds appropriated or otherwise made available under the heading “Foreign Military Financing Program” by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161) that were previously transferred to and merged with “Diplomatic and Consular Programs” may be made available for any pur-

poses authorized for that account, of which up to \$500,000 shall be made available to increase the capacity of the United States Embassy in Mexico City to vet members and units of Mexican military and police forces that receive assistance made available by this Act and to monitor the uses of such assistance.

(d) REIMBURSEMENTS.—Any agreement for the transfer or allocation of funds appropriated by this Act, or prior Acts, entered into between the United States Agency for International Development and another agency of the United States Government under the authority of section 632(a) of the Foreign Assistance Act of 1961 or any comparable provision of law, shall include the provision of sufficient funds to fully reimburse the United States Agency for International Development for the administrative costs, including the cost of direct hire personnel, incurred in implementing and managing the programs and activities under such transfer or allocation. Such funds transferred or allocated to the United States Agency for International Development for administrative costs shall be transferred to and merged with “Operating Expenses of the United States Agency for International Development”.

(e) EXCEPTION.—Section 8002 of title VIII of this Act shall not apply to this section.

(f) SPENDING AUTHORITY.—Funds made available by this chapter may be expended notwithstanding section 699K of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161).

#### BUYING POWER MAINTENANCE ACCOUNT (INCLUDING TRANSFER OF FUNDS)

SEC. 1408. (a) Of the funds appropriated under the heading “Diplomatic and Consular Programs” and allocated by section 3810 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28), \$26,000,000 shall be transferred to and merged with funds in the “Buying Power Maintenance Account”: *Provided*, That of the funds made available by this chapter up to an additional \$74,000,000 may be transferred to and merged with the “Buying Power Maintenance Account”, subject to the regular notification procedures of the Committees on Appropriations and in accordance with the procedures in section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). Any funds transferred pursuant to this section shall be available, without fiscal year limitation, pursuant to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by amending subparagraph (D) to read as follows:

“(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.”.

#### SERBIA

SEC. 1409. (a) Of the funds made available for assistance for Serbia under the heading “Assistance for Eastern Europe and the Baltic States” by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161), an amount equivalent to the costs of damage to the United States Embassy in Belgrade, Serbia, as estimated by the Secretary of State, resulting from the February 21, 2008 attack on such Embassy, shall be transferred to, and merged with, funds provided under the heading “Embassy Security, Construction, and Maintenance” to be used for necessary repairs or future construction.

(b) The requirements of subsection (a) shall not apply if the Secretary of State certifies to the Committees on Appropriations that the Government of Serbia has provided full compensation to the Department of State for damages to the United States Embassy in Belgrade, Serbia resulting from the February 21, 2008 attack on such Embassy.

(c) Section 8002 of title VIII of this Act shall not apply to this section.

#### RESCISSIONS

##### (INCLUDING RESCISSIONS)

#### SEC. 1410. (a) WORLD FOOD PROGRAM.—

(1) For an additional amount for a contribution to the World Food Program to assist farmers in countries affected by food shortages to increase crop yields, notwithstanding any other provision of law, \$20,000,000, to remain available until expended.

(2) Of the funds appropriated under the heading “Andean Counterdrug Initiative” in prior acts making appropriations for foreign operations, export financing, and related programs, \$20,000,000 are rescinded.

#### (b) SUDAN.—

(1) For an additional amount for “International Narcotics Control and Law Enforcement”, \$10,000,000, for assistance for Sudan to support formed police units, to remain available until September 30, 2009, and subject to prior consultation with the Committees on Appropriations.

(2) Of the funds appropriated under the heading “International Narcotics Control and Law Enforcement” in prior acts making appropriations for foreign operations, export financing, and related programs, \$10,000,000 are rescinded.

(c) MEXICO.—Of the unobligated balances of funds appropriated for “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$50,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

#### (d) HORN OF AFRICA.—

(1) For an additional amount for “Economic Support Fund”, \$40,000,000 for programs to promote development and counter extremism in the Horn of Africa, to be administered by the United States Agency for International Development, and to remain available until September 30, 2009.

(2) Of the unobligated balances of funds appropriated for “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$40,000,000 are rescinded, notwithstanding section 1402(g) of this Act.

(e) EXCEPTION.—Section 8002 of title VIII of this Act shall not apply to subsections (a) and (b) of this section.

#### DARFUR PEACEKEEPING

SEC. 1411. Funds appropriated under the headings “Foreign Military Financing Program” and “Peacekeeping Operations” by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161) and by prior Acts making appropriations for foreign operations, export financing, and related programs may be used to transfer or lease helicopters necessary to the operations of the African Union/United Nations peacekeeping operation in Darfur, Sudan, that was established pursuant to United Nations Security Council Resolution 1769. The President may utilize the authority of sections 506 or 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j) or section 61 of the Arms Export Control Act (22 U.S.C. 2796) in order to effect such transfer or lease, notwithstanding any other provision of law except for sections 502B(a)(2), 620A and 620J of

the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 2371, 2378d) and section 40A of the Arms Export Control Act (22 U.S.C. 2780). Any exercise of the authority of section 506 of the Foreign Assistance Act pursuant to this section may include the authority to acquire helicopters by contract.

#### FOOD SECURITY AND CYCLONE NARGIS RELIEF

##### (INCLUDING RESCISSION OF FUNDS)

SEC. 1412. (a) For an additional amount for “International Disaster Assistance”, \$225,000,000, to address the international food crisis globally and for assistance for Burma to address the effects of Cyclone Nargis: *Provided*, That not less than \$125,000,000 should be made available for the local or regional purchase and distribution of food to address the international food crisis: *Provided further*, That notwithstanding any other provision of law, none of the funds appropriated under this heading may be made available for assistance for the State Peace and Development Council.

(b) Of the unexpended balances of funds appropriated under the heading “Millennium Challenge Corporation” in prior Acts making appropriations for foreign operations, export financing and related programs, \$225,000,000 are rescinded.

(c) Section 8002 of title VIII of this Act shall not apply to this section.

#### JORDAN

##### (INCLUDING RESCISSION OF FUNDS)

SEC. 1413. (a) For an additional amount for “Economic Support Fund” for assistance for Jordan, \$100,000,000, to remain available until September 30, 2009.

(b) For an additional amount for “Foreign Military Financing Program” for assistance for Jordan, \$200,000,000, to remain available until September 30, 2009.

(c) Of the unexpended balances of funds appropriated under the heading “Millennium Challenge Corporation” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$300,000,000 are rescinded.

(d) Section 8002 of title VIII of this Act shall not apply to this section.

#### ALLOCATIONS

SEC. 1414. (a) Funds provided by this chapter for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the explanatory statement accompanying this Act:

“Diplomatic and Consular Programs”.  
“Economic Support Fund”.

(b) Any proposed increases or decreases to the amounts contained in such tables in the statement accompanying this Act shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

#### REPROGRAMMING AUTHORITY

SEC. 1415. Notwithstanding any other provision of law, to include minimum funding requirements or funding directives, funds made available under the headings “Development Assistance” and “Economic Support Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

#### SPENDING PLANS AND NOTIFICATION PROCEDURES

SEC. 1416. (a) SUBCHAPTER A SPENDING PLAN.—Not later than 45 days after the enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expendi-

tures for funds appropriated under the headings in subchapter A, except for funds appropriated under the headings “International Disaster Assistance”, “Migration and Refugee Assistance”, and “United States Emergency Refugee and Migration Assistance Fund”.

(b) SUBCHAPTER B SPENDING PLAN.—The Secretary of State shall submit to the Committees on Appropriations not later than November 1, 2008, and prior to the initial obligation of funds, a detailed spending plan for funds appropriated or otherwise made available in subchapter B, except for funds appropriated under the headings “International Disaster Assistance”, “Migration and Refugee Assistance”, and “United States Emergency Refugee and Migration Assistance Fund”.

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

#### TERMS AND CONDITIONS

SEC. 1417. Unless otherwise provided for in this Act, funds appropriated, or otherwise made available, by this chapter shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110-161).

#### TITLE II

#### DOMESTIC MATTERS

#### CHAPTER 1

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### FOOD AND DRUG ADMINISTRATION

#### SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the Food and Drug Administration, \$265,000,000, to remain available until September 30, 2009: *Provided*, That of the amount provided: (1) \$119,000,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) \$48,500,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) \$23,500,000 shall be for the Center for Biologics Evaluation and Research and related field activities in the Office of Regulatory Affairs; (4) \$10,700,000 shall be for the Center for Veterinary Medicine and related field activities in the Office of Regulatory Affairs; (5) \$35,500,000 shall be for the Center for Devices and Radiological Health and related field activities in the Office of Regulatory Affairs; (6) \$6,000,000 shall be for the National Center for Toxicological Research; and (7) \$21,800,000 shall be for other activities, including the Office of the Commissioner, the Office of Scientific and Medical Programs; the Office of Policy, Planning and Preparedness; the Office of International and Special Programs; the Office of Operations; and central services for these offices.

#### BUILDINGS AND FACILITIES

For an additional amount for plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, \$10,000,000, to remain available until expended.

#### CHAPTER 2

#### DEPARTMENT OF COMMERCE

#### BUREAU OF THE CENSUS

#### PERIODIC CENSUSES AND PROGRAMS

For an additional amount for “Periodic Censuses and Programs”, \$210,000,000, to remain available until expended, for necessary

expenses related to the 2010 Decennial Census: *Provided*, That not less than \$3,000,000 shall be transferred to the "Office of Inspector General" at the Department of Commerce for necessary expenses associated with oversight activities of the 2010 Decennial Census: *Provided further*, That \$1,000,000 shall be used only for a reimbursable agreement with the Defense Contract Management Agency to provide continuing contract management oversight of the 2010 Decennial Census.

DEPARTMENT OF JUSTICE  
UNITED STATES MARSHALS SERVICE  
SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$50,000,000 for the United States Marshals Service to implement and enforce the Adam Walsh Child Protection and Safety Act (Public Law 109-248) to track down and arrest non-compliant sex offenders.

FEDERAL PRISON SYSTEM  
SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$178,000,000, to remain available until September 30, 2008.

OFFICE OF JUSTICE PROGRAMS  
STATE AND LOCAL LAW ENFORCEMENT  
ASSISTANCE

For an additional amount for the Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of Omnibus Crime Control and Safe Street Act of 1968 ("1968 Act"), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), \$490,000,000, to remain available until September 30, 2008.

For an additional amount for "State and Local Law Enforcement Assistance", \$100,000,000 for competitive grants to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotic activity stemming from the Southern border, of which \$10,000,000 shall be for the ATF Project Gunrunner.

SCIENCE  
NATIONAL AERONAUTICS AND SPACE  
ADMINISTRATION  
RETURN TO FLIGHT

For necessary expenses, not otherwise provided for, in carrying out return to flight activities associated with the space shuttle and activities from which funds were transferred to accommodate return to flight activities, \$200,000,000.

NATIONAL SCIENCE FOUNDATION  
RESEARCH AND RELATED ACTIVITIES

For additional expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), \$150,000,000.

EDUCATION AND HUMAN RESOURCES

For additional expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), \$50,000,000.

CHAPTER 3  
DEPARTMENT OF ENERGY

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for "Non-Defense Environmental Cleanup", \$5,000,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND  
DECOMMISSIONING FUND

For an additional amount for "Uranium Enrichment Decontamination and Decom-

missioning Fund", \$52,000,000, to remain available until expended.

SCIENCE

For an additional amount for "Science", \$100,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE  
ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for "Defense Environmental Cleanup", \$243,000,000, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

SEC. 2301. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION. The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended—

(1) in section 3102, by striking "For purposes" and inserting "Except as provided in section 3112A, for purposes";

(2) in section 3112(a), by striking "The Secretary" and inserting "Except as provided in section 3112A(d), the Secretary"; and

(3) by inserting after section 3112 the following:

"SEC. 3112A. INCENTIVES FOR ADDITIONAL DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.

"(a) DEFINITIONS.—In this section:

"(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—The term 'completion of the Russian HEU Agreement' means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.

"(2) DOWNBLENDING.—The term 'downblending' means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

"(3) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' has the meaning given that term in section 3102(4).

"(4) HIGHLY ENRICHED URANIUM OF WEAPONS ORIGIN.—The term 'highly enriched uranium of weapons origin' means highly enriched uranium that—

"(A) contains 90 percent or more uranium-235; and

"(B) is verified by the Secretary of Energy to be of weapons origin.

"(5) LOW-ENRICHED URANIUM.—The term 'low-enriched uranium' means a uranium product in any form, including uranium hexafluoride (UF<sub>6</sub>) and uranium oxide (UO<sub>2</sub>), in which the uranium contains less than 20 percent uranium-235, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.

"(6) RUSSIAN HEU AGREEMENT.—The term 'Russian HEU Agreement' has the meaning given that term in section 3102(11).

"(7) URANIUM-235.—The term 'uranium-235' means the isotope <sup>235</sup>U.

"(b) STATEMENT OF POLICY.—It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

"(c) PROMOTION OF DOWNBLENDING OF RUSSIAN HIGHLY ENRICHED URANIUM.—

"(1) INCENTIVES FOR THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separate work units, that is produced in the

Russian Federation and is not imported pursuant to the Russian HEU Agreement may not exceed the following amounts:

"(A) In each of the calendar years 2008 and 2009, not more than 22,500 kilograms.

"(B) In each of the calendar years 2010 and 2011, not more than 45,000 kilograms.

"(C) In calendar year 2012 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, not more than 67,500 kilograms.

"(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—

"(A) IN GENERAL.—In each calendar year beginning after the calendar year of the completion of the Russian HEU Agreement and before the termination date described in paragraph (8), the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separate work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed 400,000 kilograms.

"(B) ADDITIONAL IMPORTS.—

"(i) IN GENERAL.—In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), 20 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may be imported for every 3 kilograms of Russian highly enriched uranium of weapons origin that was downblended in the preceding calendar year, subject to the verification of the Secretary of Energy under paragraph (10).

"(ii) MAXIMUM ANNUAL IMPORTS.—Not more than 200,000 kilograms of low-enriched uranium may be imported in a calendar year under clause (i).

"(3) EXCEPTION WITH RESPECT TO INITIAL CORES.—The import limitations described in paragraphs (1) and (2) shall not apply to low-enriched uranium produced in the Russian Federation that is imported into the United States for use in the initial core of a new nuclear reactor.

"(4) ANNUAL ADJUSTMENT.—

"(A) IN GENERAL.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in the average amount of uranium loaded into nuclear power reactors in the United States in the most recent 3-calendar-year period for which data are available, as reported by the Energy Information Administration of the Department of Energy, compared to the average amount of uranium loaded into such reactors during the 3-calendar-year period beginning on January 1, 2011, as reported by the Energy Information Administration.

"(B) PUBLICATION OF ADJUSTMENTS.—As soon as practicable, but not later than July 31 of each calendar year, the Secretary of Energy shall publish in the Federal Register the amount of low-enriched uranium that may be imported in the current calendar year after the adjustment under subparagraph (A).

"(5) AUTHORITY FOR ADDITIONAL ADJUSTMENT.—In addition to the annual adjustment under paragraph (4), the Secretary of Commerce may adjust the import limitations

under paragraph (2)(A) for a calendar year if the Secretary—

“(A) in consultation with the Secretary of Energy, determines that the available supply of low-enriched uranium from the Russian Federation and the available stockpiles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

“(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

“(6) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

“(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

“(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2) shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

“(7) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—

“(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B) or (8)(B), subject to verification under paragraph (10), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

“(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B) and for purposes of paragraph (8)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

“(8) TERMINATION OF IMPORT RESTRICTIONS AFTER DOWNBLENDING OF AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—The provisions of this subsection shall terminate on the later of—

“(A) December 31, 2020; or

“(B) the date on which the Secretary of Energy certifies to Congress that, after the completion of the Russian HEU Agreement, not less than an additional 300 metric tons of Russian highly enriched uranium of weapons origin have been downblended.

“(9) SPECIAL RULE IF IMPORTATION UNDER RUSSIAN HEU AGREEMENT TERMINATES EARLY.—Notwithstanding any other provision of law, no low-enriched uranium produced in the Russian Federation that is not derived from highly enriched uranium of weapons origin, including low-enriched uranium obtained under contracts for separative work units, may be imported into the United States if, before the completion of the Russian HEU Agreement, the Secretary of Energy determines that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.

“(10) TECHNICAL VERIFICATIONS BY SECRETARY OF ENERGY.—

“(A) IN GENERAL.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B), (7), and (8)(B).

“(B) METHODS OF VERIFICATION.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures provided for in the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

“(11) ENFORCEMENT OF IMPORT LIMITATIONS.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

“(12) EFFECT ON OTHER AGREEMENTS.—

“(A) RUSSIAN HEU AGREEMENT.—Nothing in this section shall be construed to modify the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

“(B) OTHER AGREEMENTS.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.

“(d) DOWNBLENDING OF HIGHLY ENRICHED URANIUM IN THE UNITED STATES.—The Secretary of Energy may sell uranium in the jurisdiction of the Secretary, including downblended highly enriched uranium, at fair market value to a licensed operator of a nuclear reactor in the United States—

“(1) in the event of a disruption in the nuclear fuel supply in the United States; or

“(2) after a determination of the Secretary under subsection (c)(9) that the Russian Federation has taken deliberate action to disrupt or halt the importation into the United States of low-enriched uranium under the Russian HEU Agreement.”.

#### CHAPTER 4

##### GENERAL PROVISION—THIS CHAPTER

SEC. 2401. VETERANS BUSINESS RESOURCE CENTERS. There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, \$600,000 for the “Salaries and Expenses” account of the Small Business Administration, for grants in the amount of \$200,000 to veterans business resource centers that received grants from the National Veterans Business Development Corporation in fiscal years 2006 and 2007.

#### CHAPTER 5

##### GENERAL PROVISION—THIS CHAPTER

SEC. 2501. For fiscal year 2008, there is appropriated \$400,000,000, to remain available until December 31, 2008, for payments described in sections 101, 102(b)(3), and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106-393).

#### CHAPTER 6

##### DEPARTMENT OF LABOR

##### EMPLOYMENT AND TRAINING ADMINISTRATION

##### STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for “State Unemployment Insurance and Employment Service Operations” for grants to the States for the administration of State unemployment insurance, \$110,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, to be used for unemployment insurance workloads experienced by the States through September 30, 2008, which shall be

available for Federal obligation through December 31, 2008.

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### CENTERS FOR DISEASE CONTROL AND PREVENTION

##### DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for “Disease Control, Research, and Training”, \$26,000,000, for the prevention of and response to medical errors including research, education and outreach activities; of which no less than \$5,000,000 shall be for responding to outbreaks of communicable diseases related to the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

##### NATIONAL INSTITUTES OF HEALTH

##### OFFICE OF THE DIRECTOR

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of the Director, National Institutes of Health”, \$400,000,000.

##### GENERAL PROVISIONS—THIS CHAPTER

SEC. 2601. In addition to amounts otherwise made available for fiscal year 2008, there are appropriated, out of any money in the Treasury not otherwise appropriated, \$1,000,000,000 for fiscal year 2008, for making payments under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623).

SEC. 2602. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28; 121 Stat. 189) is amended to read as follows:

##### “SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

“(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is \$7.25 per hour, the Government Accountability Office shall conduct a study to—

“(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110-28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

“(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

“(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

“(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

“(1) the Department of Labor shall include and separately report on American Samoa

and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

“(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

“(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

#### CHAPTER 7

##### RELATED AGENCY

###### AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

For an additional amount for “Foreign Currency Fluctuations Account”, \$10,000,000, to remain available until expended, for purposes authorized by section 2109 of title 36, United States Code.

#### TITLE III

##### HURRICANES KATRINA AND RITA, AND OTHER NATURAL DISASTERS

#### CHAPTER 1

##### DEPARTMENT OF AGRICULTURE

###### FARM SERVICE AGENCY

###### EMERGENCY CONSERVATION PROGRAM

For the purposes of carrying out the Emergency Conservation Program, there is hereby appropriated \$49,413,000, to remain available until expended.

###### NATURAL RESOURCES CONSERVATION SERVICE WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for “Watershed and Flood Prevention Operations”, for emergency recovery operations, \$130,464,000, to remain available until expended.

##### GENERAL PROVISION—THIS CHAPTER

###### (INCLUDING RESCISSION)

SEC. 3101. Of the funds made available in the second paragraph under the heading “Rural Utilities Service, Rural Electrification and Telecommunications Loans Program Account” in chapter 1 of division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109-148; 119 Stat. 2746), the Secretary may use an amount not to exceed \$1,000,000 of remaining unobligated funds for the cost of loan modifica-

tions to rural electric loans made or guaranteed under the Rural Electrification Act of 1936, to respond to damage caused by any weather related events since Hurricane Katrina, to remain available until expended: *Provided*, That \$1,000,000 of the remaining unobligated funds under such paragraph are rescinded.

#### CHAPTER 2

##### DEPARTMENT OF COMMERCE

###### ECONOMIC DEVELOPMENT ADMINISTRATION

###### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for economic development assistance as provided by section 3082(a) of the Water Resources Development Act of 2007 (Public Law 110-114), \$75,000,000.

###### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

###### OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for “Operations, Research, and Facilities” for necessary expenses related to economic impacts associated with commercial fishery failures, fishery resource disasters, and regulations on commercial fishing industries, \$75,000,000.

##### DEPARTMENT OF JUSTICE

###### OFFICE OF JUSTICE PROGRAMS

###### STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for “State and Local Law Enforcement Assistance”, for discretionary grants authorized by subpart 2 of part E, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect on September 30, 2006, \$75,000,000: *Provided*, That the amount made available under this heading shall be for local law enforcement initiatives in the Gulf Coast region related to the aftermath of Hurricane Katrina.

#### CHAPTER 3

##### DEPARTMENT OF DEFENSE—CIVIL

###### DEPARTMENT OF THE ARMY

###### CORPS OF ENGINEERS—CIVIL

###### CONSTRUCTION

For an additional amount for “Construction” for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, and for recovery from other natural disasters \$5,033,345,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use \$4,362,000,000 of the funds appropriated under this heading to modify authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas to provide the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations current at the time of this construction; \$1,657,000,000 shall be used for the Lake Pontchartrain and Vicinity; \$1,415,000,000 shall be used for the West Bank and Vicinity project; and \$1,290,000,000 shall be for elements of the Southeast Louisiana Urban Drainage project, that are within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects to provide for interior drainage of runoff from rainfall with a 10 percent annual exceedance probability: *Provided further*, That none of this \$4,362,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That non-Federal cost allocations for these projects shall be consistent with the cost-sharing provisions under which the projects were originally constructed: *Provided further*, That the \$1,315,000,000 non-Federal cost share for these projects shall be repaid in accordance with provisions of sec-

tion 103(k) of Public Law 99-662 over a period of 30 years: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That the Secretary of the Army is directed to use \$604,745,000 of the funds appropriated under this heading to provide hurricane and storm damage reduction, flood damage reduction and ecosystem restoration along the Gulf Coast of Mississippi and surrounding areas generally as described in the Mobile District Engineer’s Mississippi Coastal Improvements Program Comprehensive Plan Report; \$173,615,000 shall be used for ecosystem restoration projects; \$4,550,000 shall be used for the Moss Point Municipal Relocation project; \$5,000,000 shall be used for the Waveland Floodproofing project; \$150,000 shall be used for the Mississippi Sound Sub Aquatic Vegetation project; \$15,430,000 shall be used for the Coast-wide Dune Restoration project; \$397,000,000 shall be used for the Homeowners Assistance and Relocation project; and \$9,000,000 shall be used for the Forrest Heights Hurricane and Storm Damage Reduction project: *Provided further*, That none of this \$604,745,000 shall become available for obligation until October 1, 2008: *Provided further*, That these projects shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the \$211,661,000 non-Federal cost share for these projects shall be repaid in accordance with the provisions of section 103(k) of Public Law 99-662 over a period of 30 years: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That the Secretary of the Army is directed to use \$66,600,000 of the funds appropriated under this heading to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

###### MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for “Mississippi River and Tributaries” for recovery from natural disasters, \$17,700,000, to remain available until expended to repair damages to Federal projects caused by recent natural disasters.

###### OPERATIONS AND MAINTENANCE

For an additional amount for “Operations and Maintenance” to dredge navigation channels and repair other Corps projects related to natural disasters, \$338,800,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report

to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

#### FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes, and for recovery from other natural disasters, \$3,368,400,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use \$2,926,000,000 of the funds appropriated under this heading to modify, at full Federal expense, authorized projects in southeast Louisiana to provide hurricane and storm damage reduction and flood damage reduction in the greater New Orleans and surrounding areas; \$704,000,000 shall be used to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; \$90,000,000 shall be used for storm-proofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; \$459,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; \$53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; \$456,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; \$412,000,000 shall be used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; \$393,000,000 shall be used for repair and restoration of authorized protections and floodwalls; \$359,000,000 shall be used to complete the authorized protection for the Lake Pontchartrain and Vicinity Project and for the West Bank and Vicinity Project: *Provided further*, That none of this \$2,926,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the Secretary of the Army, within available funds, is directed to continue the NEPA alternative evaluation of all options with particular attention to Options 1, 2 and 2a of the report to Congress, dated August 30, 2007, provided in response to the requirements of chapter 3, section 4303 of Public Law 110-28, and within 90 days of enactment of this Act provide the House and Senate Committees on Appropriations cost estimates to implement Options 1, 2 and 2a of the above cited report: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that are necessary to accomplish the established goals are authorized, subject to the approval of the House and Senate Committees on Appropriations: *Provided further*, That \$348,000,000 of the amount provided under this heading shall be used for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduc-

tion to the Mississippi Gulf Coast: *Provided further*, That none of this \$348,000,000 shall become available for obligation until October 1, 2008: *Provided further*, That this work shall be carried out at full Federal expense: *Provided further*, That the Secretary of the Army is directed to use \$94,400,000 of the funds appropriated under this heading to support emergency operations, to repair eligible projects nationwide, and for other activities in response to recent natural disasters: *Provided further*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

#### GENERAL EXPENSES

For an additional amount for “General Expenses” for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, \$1,500,000, to remain available until expended.

#### CHAPTER 4

##### GENERAL PROVISIONS—THIS CHAPTER

SEC. 3401. Notwithstanding any other provision of law, and not later than 30 days after the date of submission of a request for a single payment, the Federal Emergency Management Agency shall provide a single payment for any eligible costs under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for any police station, fire station, or criminal justice facility that was damaged by Hurricane Katrina of 2005 or Hurricane Rita of 2005: *Provided*, That nothing in this section may be construed to alter the appeal or review process relating to assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That the Federal Emergency Management Agency shall not reduce the amount of assistance provided under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act for such facilities.

SEC. 3402. Until such time as the updating of flood insurance rate maps under section 19 of the Flood Modernization Act of 2007 is completed (as determined by the district engineer) for all areas located in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers, the Administrator of the Federal Emergency Management Agency shall not adjust the chargeable premium rate for flood insurance under this section for any type or class of property located in an area in that District nor require the purchase of flood insurance for any type or class of property located in an area in that District not subject to such purchase requirement prior to the updating of such national flood insurance program rate map: *Provided*, That for purposes of this section, the term “area” does not include any area (or subdivision thereof) that has chosen not to participate in the flood insurance program under this section as of the date of enactment of this Act.

#### CHAPTER 5

##### DEPARTMENT OF THE INTERIOR

###### BUREAU OF LAND MANAGEMENT

###### WILDLAND FIRE MANAGEMENT

###### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Wildland Fire Management”, \$125,000,000, to remain available until expended, of which \$100,000,000 is for emergency wildland fire suppression activities, and of which \$25,000,000 is for rehabilitation and restoration of Federal lands: *Provided*, That emer-

gency wildland fire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

#### NATIONAL PARK SERVICE

##### HISTORIC PRESERVATION FUND

For an additional amount for the “Historic Preservation Fund”, for expenses related to the consequences of Hurricane Katrina, \$15,000,000, to remain available until expended: *Provided*, That the funds provided under this heading shall be provided to the Louisiana State Historic Preservation Officer, after consultation with the National Park Service, for grants for restoration and rehabilitation at Jackson Barracks: *Provided further*, That no more than 5 percent of funds provided under this heading for disaster relief grants may be used for administrative expenses.

#### ENVIRONMENTAL PROTECTION AGENCY

##### STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for “State and Tribal Assistance Grants”, for expenses related to the consequences of Hurricane Katrina, \$5,000,000, to remain available until expended, for a grant to Cameron Parish, Louisiana, for construction of drinking water, wastewater and storm water infrastructure and for water quality protection: *Provided*, That for purposes of this grant, the grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency.

#### DEPARTMENT OF AGRICULTURE

##### FOREST SERVICE

###### WILDLAND FIRE MANAGEMENT

###### (INCLUDING TRANSFERS OF FUNDS)

For an additional amount for “Wildland Fire Management”, \$325,000,000, to remain available until expended, of which \$250,000,000 shall be available for emergency wildfire suppression, and of which \$75,000,000 shall be available for rehabilitation and restoration of Federal lands and may be transferred to other Forest Service accounts as necessary: *Provided*, That emergency wildfire suppression funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

#### CHAPTER 6

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

###### CENTERS FOR MEDICARE AND MEDICAID SERVICES

For grants to States, consistent with section 6201(a)(4) of the Deficit Reduction Act of 2005, to make payments as defined by the Secretary in the methodology used for the Provider Stabilization grants to those Medicare participating general acute care hospitals, as defined in section 1886(d) of the Social Security Act, and currently operating in Jackson, Forrest, Hancock, and Harrison Counties of Mississippi and Orleans and Jefferson Parishes of Louisiana which continue to experience severe financial exigencies and other economic losses attributable to Hurricane Katrina or its subsequent flooding, and are in need of supplemental funding to relieve the financial pressures these hospitals face resulting from increased wage rates in hiring and retaining staff in order to stabilize access to patient care, \$350,000,000, to be made available until September 30, 2010.

#### CHAPTER 7

##### MILITARY CONSTRUCTION

###### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

###### (INCLUDING RESCISSION OF FUNDS)

For an additional amount for “Military Construction, Army National Guard”,

\$11,503,000, to remain available until September 30, 2012: *Provided*, That such funds may be obligated or expended for planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 109-234, \$7,000,000 are hereby rescinded.

#### GENERAL PROVISION—THIS CHAPTER

SEC. 3701. Within the funds available in the Department of Defense Family Housing Improvement Fund as credited in accordance with 10 U.S.C. 2883(c), \$10,500,000 shall be available for use at the Naval Construction Battalion Center, Gulfport, Mississippi, under the terms and conditions specified by 10 U.S.C. 2883, to remain available until expended.

### CHAPTER 8

#### DEPARTMENT OF TRANSPORTATION

##### FEDERAL-AID HIGHWAYS

##### EMERGENCY RELIEF PROGRAM

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, for eligible disasters occurring in fiscal years 2005 to the present, \$451,126,383, to remain available until expended.

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### PERMANENT SUPPORTIVE HOUSING

For the provision of permanent supportive housing units as identified in the plan of the Louisiana Recovery Authority and approved by the Secretary of Housing and Urban Development, \$73,000,000 to remain available until expended, of which not less than \$20,000,000 shall be for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), not less than \$50,000,000 shall be for grants under the Shelter Plus Care Program as authorized under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.), and not more than \$3,000,000 shall be for related administrative expenses of the State of Louisiana or its designee or designees: *Provided*, That the Secretary of Housing and Urban Development shall, upon request, make funds available under this paragraph to the State of Louisiana or its designee or designees: *Provided further*, That notwithstanding any other provision of law, for the purpose of administering the amounts provided under this paragraph, the State of Louisiana or its designee or designees may act in all respects as a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)): *Provided further*, That subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall not apply with respect to vouchers made available under this paragraph.

##### PROJECT-BASED RENTAL ASSISTANCE

For an additional amount to areas impacted by Hurricane Katrina in the State of Mississippi for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), \$20,000,000, to remain available until expended.

##### HOUSING TRANSITION ASSISTANCE

For an additional amount to the State of Louisiana for case management and housing transition services for families in areas impacted by Hurricanes Katrina and Rita of 2005, \$3,000,000, to remain available until expended.

##### COMMUNITY DEVELOPMENT FUND

For an additional amount for the "Community development fund" for necessary expenses related to any uncompensated hous-

ing damage directly related to the consequences of Hurricane Katrina in the State of Alabama, \$50,000,000, to remain available until expended: *Provided*, That prior to the obligation of funds the State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address uncompensated housing damage: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency: *Provided further*, That the State may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this paragraph, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver.

#### (RESCISSION)

Of the unobligated balances remaining from funds appropriated under this heading by section 159 of Public Law 110-116 for the Louisiana Road Home program, \$200,000,000 are rescinded.

### TITLE IV—VETERANS EDUCATIONAL ASSISTANCE

#### SEC. 4001. SHORT TITLE.

This title may be cited as the "Post-9/11 Veterans Educational Assistance Act of 2008".

#### SEC. 4002. FINDINGS.

Congress makes the following findings:

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many "G.I. Bills" enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

#### SEC. 4003. EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO SERVE AFTER SEPTEMBER 11, 2001.

(a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—Part III of title 38, United States Code, is amended by inserting after chapter 32 the following new chapter:

### "CHAPTER 33—POST-9/11 EDUCATIONAL ASSISTANCE

#### "SUBCHAPTER I—DEFINITIONS

"Sec.

"3301. Definitions.

#### "SUBCHAPTER II—EDUCATIONAL ASSISTANCE

"3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.

"3312. Educational assistance: duration.

"3313. Educational assistance: amount; payment.

"3314. Tutorial assistance.

"3315. Licensure and certification tests.

"3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service.

"3317. Public-private contributions for additional educational assistance.

"3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.

#### "SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

"3321. Time limitation for use of and eligibility for entitlement.

"3322. Bar to duplication of educational assistance benefits.

"3323. Administration.

"3324. Allocation of administration and costs.

#### "SUBCHAPTER I—DEFINITIONS

### "§ 3301. Definitions

"In this chapter:

"(1) The term 'active duty' has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b) of this title):

"(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A) of this title.

"(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

"(2) The term 'entry level and skill training' means the following:

"(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

"(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called 'A' School).

"(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

"(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

"(E) In the case of members of the Coast Guard, Basic Training.

"(3) The term 'program of education' has the meaning the meaning given such term in

section 3002 of this title, except to the extent otherwise provided in section 3313 of this title.

“(4) The term ‘Secretary of Defense’ has the meaning given such term in section 3002 of this title.

“SUBCHAPTER II—EDUCATIONAL ASSISTANCE

“§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

“(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

“(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

“(1) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty; or

“(ii) is discharged or released from active duty as described in subsection (c).

“(2) An individual who—

“(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

“(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

“(3) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 36 months; or

“(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

“(4) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 30 months; or

“(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

“(5) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 24 months; or

“(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

“(6) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service

on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 18 months; or

“(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

“(7) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 12 months; or

“(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

“(8) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 6 months; or

“(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

“(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

“(1) A discharge from active duty in the Armed Forces with an honorable discharge.

“(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

“(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

“(4) A discharge or release from active duty in the Armed Forces for—

“(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

“(B) hardship; or

“(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

“(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

“(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

“(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

“(3) A period of service that is terminated because of a defective enlistment and induction based on—

“(A) the individual's being a minor for purposes of service in the Armed Forces;

“(B) an erroneous enlistment or induction; or

“(C) a defective enlistment agreement.

“(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of such subsection.

“§ 3312. Educational assistance: duration

“(a) IN GENERAL.—Subject to section 3695 of this title and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 of this title equal to 36 months.

“(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 of this title by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2) of this title.

“(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—(1) Any payment of educational assistance described in paragraph (2) shall not—

“(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

“(B) be counted against the aggregate period for which section 3695 of this title limits the individual's receipt of educational assistance under this chapter.

“(2) Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

“(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

“(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

“(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

“(3) The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

“§ 3313. Educational assistance: amount; payment

“(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

“(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f) of this title) and is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned).

“(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

“(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2) of this title, amounts as follows:

“(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

“(B) A monthly stipend in an amount as follows:

“(i) For each month the individual pursues the program of education, other than a program of education offered through distance learning, a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

“(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

“(I) \$1,000, multiplied by

“(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

“(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3) of this title, amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4) of this title, amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5) of this title, amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(5) In the case of an individual entitled to educational assistance under this chapter by

reason of section 3311(b)(6) of this title, amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7) of this title, amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8) of this title, amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(d) FREQUENCY OF PAYMENT.—(1) Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(2) Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

“(3) The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

“(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

“(2) The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

“(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

“(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1) of this title.

“(3) Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

“(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—(1) Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

“(2) The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

“(A) The amount equal to the lesser of—

“(i) the established charges which similarly circumstanced nonveterans enrolled in

the program of education involved would be required to pay; or

“(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

“(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

“(3) Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(4) For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

“(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

“(B) the number of course hours for full-time pursuit of such program of education.

“(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2) and (f)(2)(A) shall be paid directly to the educational institution concerned.

“(h) ESTABLISHED CHARGES DEFINED.—(1) In this section, the term ‘established charges’, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

“(2) Established charges shall be determined for purposes of this subsection on the following basis:

“(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

“(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

#### “§ 3314. Tutorial assistance

“(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title.

“(b) CONDITIONS.—(1) The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492 of this title.

“(2) In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

“(A) such benefits are essential to correct a deficiency of the individual in such course; and

“(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

“(c) AMOUNT.—(1) The amount of benefits described in subsection (a) that are payable under this section may not exceed \$100 per month, for a maximum of 12 months, or until a maximum of \$1,200 is utilized.

“(2) The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313 of this title.

“(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

**“§ 3315. Licensure and certification tests**

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b) of this title.

“(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

“(1) \$2,000; or

“(2) the fee charged for the test.

“(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

**“§ 3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service**

“(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—(1) In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

“(2) The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) of this title at the time of the increase under paragraph (1).

“(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—(1) The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30 of this title. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7) of such section (as applicable).

“(2) Eligibility for supplemental educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30 of this title, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 of this title shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

“(3) The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational assistance payable under section 3022 of this title.

“(c) REGULATIONS.—The Secretaries concerned shall administer this section in ac-

cordance with such regulations as the Secretary of Defense shall prescribe.

**“§ 3317. Public-private contributions for additional educational assistance**

“(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313 of this title), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

“(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the ‘Yellow Ribbon G.I. Education Enhancement Program’.

“(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

“(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

“(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

“(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

“(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

“(d) MATCHING CONTRIBUTIONS.—(1) In instances where the educational assistance provided an individual under section 3313(c)(1)(A) of this title does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

“(2) Amounts available to the Secretary under section 3324(b) of this title for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

“(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

**“§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education**

“(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of \$500.

“(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

“(1) who resides in a highly rural area (as determined by the Bureau of the Census); and

“(2) who—

“(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

“(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

“(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual’s place of residence utilizing any of the following:

“(1) DD Form 214, Certification of Release or Discharge from Active Duty.

“(2) The most recent Federal income tax return.

“(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

“(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

“(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.”.

**“SUBCHAPTER III—ADMINISTRATIVE PROVISIONS**

**“§ 3321. Time limitation for use of and eligibility for entitlement**

“(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual’s entitlement expires at the end of the 15-year period beginning on the date of such individual’s last discharge or release from active duty.

“(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d) of section 3031 of this title shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 of this title with respect to the running of the 10-year period described in section 3031(a) of this title.

“(2) Section 3031(f) of this title shall apply with respect to the termination of an individual’s entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual’s entitlement to educational assistance under chapter 30 of this title, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 of this title shall be deemed to be a reference to 3312 of this title.

“(3) For purposes of subsection (a), an individual’s last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2) of this title.

**“§ 3322. Bar to duplication of educational assistance benefits**

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

“(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan

under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

“(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

“(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 303(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

#### “§ 3323. Administration

“(a) IN GENERAL.—(1) Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) of this title shall apply to the provision of educational assistance under this chapter.

“(2) In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term ‘eligible veteran’ shall be deemed to refer to an individual entitled to educational assistance under this chapter.

“(3) In applying section 3474 of this title to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term ‘educational assistance allowance’ shall be deemed to refer to educational assistance payable under section 3313 of this title.

“(4) In applying section 3482(g) of this title to an individual entitled to educational assistance under this chapter for purposes of this section—

“(A) the first reference to the term ‘educational assistance allowance’ in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313 of this title; and

“(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with ‘equipment’.

“(b) INFORMATION ON BENEFITS.—(1) The Secretary of Veterans Affairs shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary of Veterans Affairs and the Secretary of Defense shall jointly prescribe in regulations.

“(2) The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102 of this title.

“(3) The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

“(c) REGULATIONS.—(1) The Secretary shall prescribe regulations for the administration of this chapter.

“(2) Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

#### “§ 3324. Allocation of administration and costs

“(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

“(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department of Veterans Affairs for the payment of readjustment benefits.”.

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

#### “33. Post-9/11 Educational Assistance 3301”.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1), by inserting “33,” after “32.”; and

(ii) in subsection (c), by striking “both the program established by this chapter and the program established by chapter 106 of title 10” and inserting “two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10”.

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

“(4) Chapters 30, 32, 33, 34, 35, and 36 of this title.”.

(C) Section 16163(e) of title 10, United States Code, is amended by inserting “33,” after “32.”.

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting “33,” after “32,” each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690(b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking “or 32” and inserting “32, or 33”.

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.—

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of August 1, 2009—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational as-

sistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual’s election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title (as so added), or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

(ii) the fraction—

(I) the numerator of which is—

(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

(II) the denominator of which is 36 months.

(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALTY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance

under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2009.

**SEC. 4004. INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER THE MONTGOMERY GI BILL.**

(a) EDUCATIONAL ASSISTANCE BASED ON THREE-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (a)(1) of section 3015 of title 38, United States Code, is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

“(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,321; and”;

(2) by redesignating subparagraph (D) as subparagraph (B).

(b) EDUCATIONAL ASSISTANCE BASED ON TWO-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (b)(1) of such section is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

“(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,073; and”;

(2) by redesignating subparagraph (D) as subparagraph (B).

(c) MODIFICATION OF MECHANISM FOR COST-OF-LIVING ADJUSTMENTS.—Subsection (h)(1) of such section is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

“(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

“(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on August 1, 2008.

(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.

**SEC. 4005. MODIFICATION OF AMOUNT AVAILABLE FOR REIMBURSEMENT OF STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION BENEFITS.**

Section 3674(a)(4) of title 38, United States Code, is amended by striking “may not exceed” and all that follows through the end and inserting “shall be \$19,000,000.”.

**TITLE V—EMERGENCY UNEMPLOYMENT COMPENSATION**

FEDERAL-STATE AGREEMENTS

SEC. 5001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, upon providing 30 days written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 5002 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

SEC. 5002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual

who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) SPECIAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, if, at the time that the individual's account is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), then, such account shall be augmented by an amount equal to the amount originally established in such account (as determined under subsection (b)(1)).

(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

(i) were applied by substituting "4" for "5" each place it appears; and

(ii) did not include the requirement under paragraph (1)(A); or

(C) such a period would then be in effect for such State under such Act if—

(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

(ii) such section 203(f)—

(I) were applied by substituting "6.0" for "6.5" in paragraph (1)(A)(i); and

(II) did not include the requirement under paragraph (1)(A)(ii).

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 5003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to re-

ceive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 5004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

FRAUD AND OVERPAYMENTS

SEC. 5005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such non-disclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title

to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

DEFINITIONS

SEC. 5006. In this title, the terms "compensation", "regular compensation", "extended compensation", "benefit year", "base period", "State", "State agency", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

APPLICABILITY

SEC. 5007. (a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending on or before March 31, 2009.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 5002 as of the last day of the last week (as determined in accordance with the applicable State law) ending on or before March 31, 2009, emergency unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such last day for which the individual meets the eligibility requirements of this title.

(2) LIMIT ON AUGMENTATION.—If the account of an individual is exhausted after the last day of such last week (as so determined), then section 5002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

(3) LIMIT ON COMPENSATION.—No compensation shall be payable by reason of paragraph

(1) for any week beginning after June 30, 2009.

#### TITLE VI—OTHER HEALTH MATTERS

SEC. 6001. (a) MORATORIA ON CERTAIN MEDICAID REGULATIONS.—

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110-28.—Section 7002(a)(1) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28) is amended—

(A) by striking “prior to the date that is 1 year after the date of enactment of this Act” and inserting “prior to April 1, 2009”;

(B) in subparagraph (A), by inserting after “Federal Regulations” the following: “or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748)”; and

(C) in subparagraph (C), by inserting before the period at the end the following: “, including the proposed regulation published on May 23, 2007 (72 Federal Register 28930)”.

(2) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110-173.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is amended—

(A) by striking “June 30, 2008” and inserting “April 1, 2009”;

(B) by inserting “, including the proposed regulation published on August 13, 2007 (72 Federal Register 45201),” after “rehabilitation services”; and

(C) by inserting “, including the final regulation published on December 28, 2007 (72 Federal Register 73635),” after “school-based transportation”.

(3) MORATORIUM ON INTERIM FINAL MEDICAID REGULATION RELATING TO OPTIONAL CASE MANAGEMENT AND TARGETED CASE MANAGEMENT SERVICES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to the interim final regulation relating to optional State plan case management services and targeted case management services under the Medicaid program published on December 4, 2007 (72 Federal Register 68077) in its entirety.

(4) ADDITIONAL MORATORIA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to a provision described in subparagraph (B) or (C) if such restrictions are more restrictive in any aspect than those applied to the respective provision as of the date specified in subparagraph (D) for such provision.

(B) PROPOSED REGULATION RELATING TO REDEFINITION OF MEDICAID OUTPATIENT HOSPITAL SERVICES.—The provision described in this subparagraph is the proposed regulation relating to clarification of outpatient clinic and hospital facility services definition and upper payment limit under the Medicaid program published on September 28, 2007 (72 Federal Register 55158) in its entirety.

(C) PORTION OF PROPOSED REGULATION RELATING TO MEDICAID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is

the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9685) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portions of such regulation as relate to the following:

(I) REDUCTION IN THRESHOLD.—The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109-171).

(D) DATE SPECIFIED.—The date specified in this subparagraph for the provision described in—

(i) subparagraph (B) is September 27, 2007; or

(ii) subparagraph (C) is February 21, 2008.

(b) RESTORATION OF ACCESS TO NOMINAL DRUG PRICING FOR CERTAIN CLINICS AND HEALTH CENTERS.—

(1) IN GENERAL.—Section 1927(c)(1)(D) of the Social Security Act (42 U.S.C. §1396r-8(c)(1)(D)), as added by section 6001(d)(2) of the Deficit Reduction Act of 2005 (Public Law 109-171), is amended—

(A) in clause (i)—

(i) by redesignating subclause (IV) as subclause (VI); and

(ii) by inserting after subclause (III) the following:

“(IV) An entity that—

“(aa) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Act or is State-owned or operated; and

“(bb) would be a covered entity described in section 340(B)(a)(4) of the Public Health Service Act insofar as the entity provides the same type of services to the same type of populations as a covered entity described in such section provides, but does not receive funding under a provision of law referred to in such section.

“(V) A public or nonprofit entity, or an entity based at an institution of higher learning whose primary purpose is to provide health care services to students of that institution, that provides a service or services described under section 1001(a) of the Public Health Service Act.”; and

(B) by adding at the end the following new clause:

“(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter any existing statutory or regulatory prohibition on services with respect to an entity described in subclause (IV) or (V) of clause (i), including the prohibition set forth in section 1008 of the Public Health Service Act.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendment made by section 6001(d)(2) of the Deficit Reduction Act of 2005.

(c) ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.—

(1) ADDITION OF AUTHORITY.—Title XIX of the Social Security Act is amended by inserting after section 1939 the following new section:

“ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

“SEC. 1940. (a) IMPLEMENTATION.—

“(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

“(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall—

“(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

“(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

“(3) PHASE-IN.—

“(A) IN GENERAL.—

“(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

“(ii) IMPLEMENTATION IN OTHER STATES.—

The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

“(I) 12.5 percent by the end of fiscal year 2009.

“(II) 25 percent by the end of fiscal year 2010.

“(III) 50 percent by the end of fiscal year 2011.

“(IV) 75 percent by the end of fiscal year 2012.

“(V) 100 percent by the end of fiscal year 2013.

“(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

“(C) STATES SPECIFIED.—The States specified in this subparagraph are California, New York, and New Jersey.

“(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

“(4) EXEMPTION OF TERRITORIES.—This section shall only apply to the 50 States and the District of Columbia.

“(b) ASSET VERIFICATION PROGRAM.—

“(1) IN GENERAL.—For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

“(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such

assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act of 1978 but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

“(B) uses the authorization provided under subparagraph (A) to verify the financial resources of such applicant or recipient (and such other person, as applicable), in order to determine or redetermine the eligibility of such applicant or recipient for medical assistance under the State plan.

“(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

“(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act of 1978, an authorization provided to a State under subsection (b)(1)(A) shall remain effective until the earliest of—

“(1) the rendering of a final adverse decision on the applicant’s application for medical assistance under the State’s plan under this title;

“(2) the cessation of the recipient’s eligibility for such medical assistance; or

“(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1)(A), as applicable) of the authorization, in a written notification to the State.

“(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

“(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

“(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act of 1978 shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

“(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act of 1978 and of section 1102 of such Act, relating to a reasonable description of financial records.

“(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

“(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1)(A), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

“(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private

entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

“(h) TECHNICAL ASSISTANCE.—The Secretary shall provide States with technical assistance to aid in implementation of an asset verification program under this section.

“(i) REPORTS.—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

“(j) TREATMENT OF PROGRAM EXPENSES.—Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.”

(2) STATE PLAN REQUIREMENTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69) by striking “and” at the end;

(B) in paragraph (70) by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (70), as so amended, the following new paragraph:

“(71) provide that the State will implement an asset verification program as required under section 1940.”

(3) WITHHOLDING OF FEDERAL MATCHING PAYMENTS FOR NONCOMPLIANT STATES.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (22) by striking “or” at the end;

(B) in paragraph (23) by striking the period at the end and inserting “; or”; and

(C) by adding after paragraph (23) the following new paragraph:

“(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical assistance for individuals subject to asset verification under such section, unless—

“(A) the State demonstrates to the Secretary’s satisfaction that the State made a good faith effort to comply;

“(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

“(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.”

(4) REPEAL.—Section 4 of Public Law 110-90 is repealed.

SEC. 6002. LIMITATION ON MEDICARE EXCEPTION TO THE PROHIBITION ON CERTAIN PHYSICIAN REFERRALS FOR HOSPITALS.—

(a) IN GENERAL.—Section 1877 of the Social Security Act (42 U.S.C. 1395nn) is amended—

(1) in subsection (d)(2)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(C) in the case where the entity is a hospital, the hospital meets the requirements of paragraph (3)(D).”;

(2) in subsection (d)(3)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) the hospital meets the requirements described in subsection (i)(1) not later than 18 months after the date of the enactment of this subparagraph.”; and

(3) by adding at the end the following new subsection:

“(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVESTMENT PROHIBITION.—

“(1) REQUIREMENTS DESCRIBED.—For purposes of subsection (d)(3)(D), the requirements described in this paragraph for a hospital are as follows:

“(A) PROVIDER AGREEMENT.—The hospital had—

“(i) physician ownership on September 1, 2008; and

“(ii) a provider agreement under section 1866 in effect on such date.

“(B) LIMITATION ON EXPANSION OF FACILITY CAPACITY.—Except as provided in paragraph (3), the number of operating rooms, procedure rooms, and beds of the hospital at any time on or after the date of the enactment of this subsection are no greater than the number of operating rooms, procedure rooms, and beds as of such date.

“(C) PREVENTING CONFLICTS OF INTEREST.—

“(i) The hospital submits to the Secretary an annual report containing a detailed description of—

“(I) the identity of each physician owner and any other owners of the hospital; and

“(II) the nature and extent of all ownership interests in the hospital.

“(ii) The hospital has procedures in place to require that any referring physician owner discloses to the patient being referred, by a time that permits the patient to make a meaningful decision regarding the receipt of care, as determined by the Secretary—

“(I) the ownership interest of such referring physician in the hospital; and

“(II) if applicable, any such ownership interest of the treating physician.

“(iii) The hospital does not condition any physician ownership interests either directly or indirectly on the physician owner making or influencing referrals to the hospital or otherwise generating business for the hospital.

“(iv) The hospital discloses the fact that the hospital is partially owned by physicians—

“(I) on any public website for the hospital; and

“(II) in any public advertising for the hospital.

“(D) ENSURING BONA FIDE INVESTMENT.—

“(i) Physician owners in the aggregate do not own more than the greater of—

“(I) 40 percent of the total value of the investment interests held in the hospital or in an entity whose assets include the hospital; or

“(II) the percentage of such total value determined on the date of enactment of this subsection.

“(ii) Any ownership or investment interests that the hospital offers to a physician owner are not offered on more favorable terms than the terms offered to a person who is not a physician owner.

“(iii) The hospital (or any investors in the hospital) does not directly or indirectly provide loans or financing for any physician owner investments in the hospital.

“(iv) The hospital (or any investors in the hospital) does not directly or indirectly guarantee a loan, make a payment toward a loan, or otherwise subsidize a loan, for any

individual physician owner or group of physician owners that is related to acquiring any ownership interest in the hospital.

“(v) Investment returns are distributed to each investor in the hospital in an amount that is directly proportional to the ownership interest of such investor in the hospital.

“(vi) Physician owners do not receive, directly or indirectly, any guaranteed receipt of or right to purchase other business interests related to the hospital, including the purchase or lease of any property under the control of other investors in the hospital or located near the premises of the hospital.

“(vii) The hospital does not offer a physician owner the opportunity to purchase or lease any property under the control of the hospital or any other investor in the hospital on more favorable terms than the terms offered to an individual who is not a physician owner.

“(E) PATIENT SAFETY.—

“(i) Insofar as the hospital admits a patient and does not have any physician available on the premises to provide services during all hours in which the hospital is providing services to such patient, before admitting the patient—

“(I) the hospital discloses such fact to a patient; and

“(II) following such disclosure, the hospital receives from the patient a signed acknowledgment that the patient understands such fact.

“(ii) The hospital has the capacity to—

“(I) provide assessment and initial treatment for patients; and

“(II) refer and transfer patients to hospitals with the capability to treat the needs of the patient involved.

“(F) LIMITATION ON APPLICATION TO CERTAIN CONVERTED FACILITIES.—The hospital was not converted from an ambulatory surgical center to a hospital on or after the date of enactment of this subsection.

“(2) PUBLICATION OF INFORMATION REPORTED.—The Secretary shall publish, and update on an annual basis, the information submitted by hospitals under paragraph (1)(C)(i) on the public Internet website of the Centers for Medicare & Medicaid Services.

“(3) EXCEPTION TO PROHIBITION ON EXPANSION OF FACILITY CAPACITY.—

“(A) PROCESS.—

“(i) ESTABLISHMENT.—The Secretary shall establish and implement a process under which an applicable hospital (as defined in subparagraph (E)) may apply for an exception from the requirement under paragraph (1)(B).

“(ii) OPPORTUNITY FOR COMMUNITY INPUT.—The process under clause (i) shall provide individuals and entities in the community that the applicable hospital applying for an exception is located with the opportunity to provide input with respect to the application.

“(iii) TIMING FOR IMPLEMENTATION.—The Secretary shall implement the process under clause (i) on November 1, 2009.

“(iv) REGULATIONS.—Not later than November 1, 2009, the Secretary shall promulgate regulations to carry out the process under clause (i).

“(B) FREQUENCY.—The process described in subparagraph (A) shall permit an applicable hospital to apply for an exception up to once every 2 years.

“(C) PERMITTED INCREASE.—

“(i) IN GENERAL.—Subject to clause (ii) and subparagraph (D), an applicable hospital granted an exception under the process described in subparagraph (A) may increase the number of operating rooms, procedure rooms, and beds of the applicable hospital above the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital (or, if the applicable hos-

pital has been granted a previous exception under this paragraph, above the number of operating rooms, procedure rooms, and beds of the hospital after the application of the most recent increase under such an exception).

“(ii) LIFETIME 100 PERCENT INCREASE LIMITATION.—The Secretary shall not permit an increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital under clause (i) to the extent such increase would result in the number of operating rooms, procedure rooms, and beds of the applicable hospital exceeding 200 percent of the baseline number of operating rooms, procedure rooms, and beds of the applicable hospital.

“(iii) BASELINE NUMBER OF OPERATING ROOMS, PROCEDURE ROOMS, AND BEDS.—In this paragraph, the term ‘baseline number of operating rooms, procedure rooms, and beds’ means the number of operating rooms, procedure rooms, and beds of the applicable hospital as of the date of enactment of this subsection.

“(D) INCREASE LIMITED TO FACILITIES ON THE MAIN CAMPUS OF THE HOSPITAL.—Any increase in the number of operating rooms, procedure rooms, and beds of an applicable hospital pursuant to this paragraph may only occur in facilities on the main campus of the applicable hospital.

“(E) APPLICABLE HOSPITAL.—In this paragraph, the term ‘applicable hospital’ means a hospital—

“(i) that is located in a county in which the percentage increase in the population during the most recent 5-year period (as of the date of the application under subparagraph (A)) is at least 150 percent of the percentage increase in the population growth of the State in which the hospital is located during that period, as estimated by Bureau of the Census;

“(ii) whose annual percent of total inpatient admissions that represent inpatient admissions under the program under title XIX is equal to or greater than the average percent with respect to such admissions for all hospitals located in the county in which the hospital is located;

“(iii) that does not discriminate against beneficiaries of Federal health care programs and does not permit physicians practicing at the hospital to discriminate against such beneficiaries;

“(iv) that is located in a State in which the average bed capacity in the State is less than the national average bed capacity; and

“(v) that has an average bed occupancy rate that is greater than the average bed occupancy rate in the State in which the hospital is located.

“(F) PROCEDURE ROOMS.—In this subsection, the term ‘procedure rooms’ includes rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed, except such term shall not include emergency rooms or departments (exclusive of rooms in which catheterizations, angiographies, angiograms, and endoscopies are performed).

“(G) PUBLICATION OF FINAL DECISIONS.—Not later than 60 days after receiving a complete application under this paragraph, the Secretary shall publish in the Federal Register the final decision with respect to such application.

“(H) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the process under this paragraph (including the establishment of such process).

“(4) COLLECTION OF OWNERSHIP AND INVESTMENT INFORMATION.—For purposes of subparagraphs (A)(i) and (D)(i) of paragraph (1), the Secretary shall collect physician owner-

ship and investment information for each hospital.

“(5) PHYSICIAN OWNER DEFINED.—For purposes of this subsection, the term ‘physician owner’ means a physician (or an immediate family member of such physician) with a direct or an indirect ownership interest in the hospital.”

(b) ENFORCEMENT.—

(1) ENSURING COMPLIANCE.—The Secretary of Health and Human Services shall establish policies and procedures to ensure compliance with the requirements described in subsection (i)(1) of section 1877 of the Social Security Act, as added by subsection (a)(3), beginning on the date such requirements first apply. Such policies and procedures may include unannounced site reviews of hospitals.

(2) AUDITS.—Beginning not later than January 1, 2010, the Secretary of Health and Human Services shall conduct audits to determine if hospitals violate the requirements referred to in paragraph (1).

SEC. 6003. Medicare Improvement Fund.— Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

“MEDICARE IMPROVEMENT FUND

“SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the ‘Fund’) which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

“(b) FUNDING.—

“(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal year 2014, \$3,340,000,000.

“(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines appropriate.

“(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.”

SEC. 6004. MORATORIUM ON AUGUST 17, 2007 CMS DIRECTIVE. Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, finalize, implement, enforce, or otherwise take any action to give effect to any or all components of the State Health Official Letter 07-001, dated August 17, 2007, issued by the Director of the Center for Medicaid and State Operations in the Centers for Medicare & Medicaid Services regarding certain requirements under the State Children’s Health Insurance Program (CHIP) relating to the prevention of the substitution of health benefits coverage for children (commonly referred to as “crowd-out”) and the enforcement of medical support orders (or to any similar administrative actions that reflect the same or similar policies set forth in such letter). Any change made on or after August 17, 2007, to a Medicaid or CHIP State plan or waiver to implement, conform to, or otherwise adhere to the requirements or policies in such letter shall not apply prior to April 1, 2009.

SEC. 6005. ADJUSTMENT TO PAQI FUND. Section 1848(1)(2) of the Social Security Act (42 U.S.C. 1395w-4(1)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), is amended—

(1) in subparagraph (A)(i)—

(A) in subclause (III), by striking “\$4,960,000,000” and inserting “\$3,940,000,000”; and

(B) by adding at the end the following new subclause:

“(IV) For expenditures during 2014, an amount equal to \$3,750,000,000.”;

(2) in subparagraph (A)(ii), by adding at the end the following new subclause:

“(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.”; and

(3) in subparagraph (B)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:

“(iv) 2014 for payment with respect to physicians’ services furnished during 2014.”.

#### TITLE VII—ACCOUNTABILITY AND COMPETITION IN GOVERNMENT CONTRACTING

##### CHAPTER 1—CLOSE THE CONTRACTOR FRAUD LOOPHOLE

###### SHORT TITLE

SEC. 7101. This chapter may be cited as the “Close the Contractor Fraud Loophole Act”.

###### REVISION OF THE FEDERAL ACQUISITION REGULATION

SEC. 7102. The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007-006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

###### DEFINITION

SEC. 7103. In this chapter, the term “covered contract” means any contract in an amount greater than \$5,000,000 and more than 120 days in duration.

##### CHAPTER 2—GOVERNMENT FUNDING TRANSPARENCY

###### SHORT TITLE

SEC. 7201. This chapter may be cited as the “Government Funding Transparency Act of 2008”.

###### FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN RECIPIENTS OF FEDERAL AWARDS

SEC. 7202. (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109-282; 31 U.S.C. 6101 note) is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following new subparagraph:

“(F) the names and total compensation of the five most highly compensated officers of the entity if—

“(i) the entity in the preceding fiscal year received—

“(I) 80 percent or more of its annual gross revenues in Federal awards; and

“(II) \$25,000,000 or more in annual gross revenues from Federal awards; and

“(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.”.

(b) REGULATIONS REQUIRED.—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter. Such regulations shall include a definition of “total compensation” that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation).

#### TITLE VIII

##### GENERAL PROVISIONS—THIS ACT

###### AVAILABILITY OF FUNDS

SEC. 8001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

###### EMERGENCY DESIGNATION

SEC. 8002. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

###### AVOIDANCE OF U.S. PAYROLL TAX CONTRIBUTIONS

SEC. 8003. None of the funds in this Act may be used by any Federal agency for a contract with any United States corporation which hires United States employees through foreign offshore subsidiaries for purposes of avoiding United States payroll tax contributions for such employees.

###### EXPLANATORY STATEMENT

SEC. 8004. The explanatory statement printed in the Senate section of the Congressional Record on May 19, 2008, submitted by the Chairman of the Committee on Appropriations of the Senate regarding the amendments of the Senate to the House amendments to the Senate amendment to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes, submitted by the Chairman of the Committee on Appropriations of the Senate, shall have the same effect with respect to the allocation of funds and implementation of titles I through XIII of this Act as if it were a report to the Senate on a bill reported by the Committee on Appropriations.

This Act shall become effective 2 days after enactment.

###### SHORT TITLE

SEC. 8005. This Act may be cited as the “Supplemental Appropriations Act, 2008”.

#### NOTICE OF HEARING

##### COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, May 22, at 9:30 a.m. in room 562 of the Dirksen Senate Office Building to conduct a hearing entitled “Follow Up on the status of Backlogs at the Department of the Interior”.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 20, 2008, at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on Tuesday, May 20, 2008, at 10 a.m., in room SD366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 20, 2008, at 10:30 a.m., to hold a hearing on law enforcement treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 20, 2008, at 2:15 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 20, 2008, at 2:45 p.m. to hold a hearing on Pakistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “Plant Closings, Workers’ Rights and the WARN Act’s 20th Anniversary” on Tuesday, May 20, 2008: The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, May 20, 2008, at 10:30 a.m. to conduct a hearing entitled “Financial Speculation in Commodity Markets: Are Institutional Investors and

Hedge Funds Contributing to Food and Energy Price Inflation?''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct a hearing entitled "Protecting the Constitutional Rights to Vote for All Americans" on Tuesday, May 20, 2008, at 2:30 p.m., in room SD-226 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 20, 2008, at 2:30 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Human Rights and the Law, be authorized to meet during the session of the Senate, to conduct a hearing entitled "Global Internet Freedom: Corporate Responsibility and the Rule of Law" on Tuesday, May 20, 2008, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that Clint Lohse of my staff, who has done a tremendous amount of work to assure that we recognize the American cowboy, be granted the privileges of the floor during debate on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent that Eric Jaffe of the Appropriations Committee staff be granted the privileges of the floor during consideration of the fiscal year 2008 emergency supplemental.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE MISSING CHILDREN'S ASSISTANCE ACT

Mr. REID. I ask unanimous consent that the Judiciary Committee be discharged from the consideration of H.R. 2517 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2517) to amend the Missing Children's Assistance Act to authorize appropriations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, tomorrow, the country will commemorate Missing Children's Day. Ceremonies at the Department of Justice and elsewhere will remember our commitment to work together in locating and recovering missing children. I am proud that today, Congress has also realized its obligation to our Nation's children by passing the Protecting Our Children Comes First Act of 2007, which takes important steps toward this goal.

For more than 5 months, one Senator has prevented this important legislation from becoming law. This is regrettable. The authorization for National Center for Missing and Exploited Children, NCMEC, and all that it does to help children and families expires at the end of this fiscal year. This is a bill that passed the House by a vote of 408 to 3. There were 95 cosponsors in the House, both Democrats and Republicans. I introduced a Senate companion bill with Senator HATCH, Senator LANDRIEU, and Senator SHELBY last summer. The Senator Judiciary Committee considered and reported our Senate bill, S. 1829, last December. We have been trying to pass it in the Senate ever since. I am glad the objecting Senator has reconsidered his hold on this legislation. The National Center will now have the security of being able to plan and to maintain their services and staff for the future.

It pains us all to see photo after photo of missing children from all around our country. As a father and grandfather, I can imagine that an abducted child is any parent's worst nightmare. Unfortunately, it is a nightmare that happens all too often. Indeed, the Justice Department estimates that 2,200 children are reported missing each day. There are approximately 114,600 attempted stranger abductions every year, with 3,000 to 5,000 of those attempts succeeding. These families need the assistance of the American people and a helping hand from Congress.

The National Center for Missing and Exploited Children spearheads national efforts to locate and recover missing children and raises public awareness about ways to prevent child abduction, molestation, and sexual exploitation. Further, NCMEC works to make our children safer by acting as a national voice and advocate for those too young to vote or speak up for their own rights.

The national center's professionals have busy, stressful and important jobs. They have worked on more than 127,700 cases of missing and exploited children since the national center's 1984 founding, helping to recover more than 110,200 children. The national center reports that it raised its recovery rate from 64 percent in the 1990s to 96 percent today. It has set up three nationwide tip lines: a toll free, 24-hour telephone hotline to take reports about missing children and clues that might lead to their recovery; a national child pornography tipline to handle calls

from individuals reporting the sexual exploitation of children through the production and distribution of pornography; and a cybertipline to process online leads from individuals reporting the sexual exploitation of children. The national center has taken the lead in circulating millions of photographs of missing children, and it serves as a vital resource for the 17,000 law enforcement agencies throughout the Nation who are one the frontlines in the search for missing children and in the pursuit of adequate child protection.

The National Center for Missing and Exploited Children manages to do all of this good work with an annual DOJ grant, which is set to expire after fiscal year 2008. It is important to act now to extend its authorization so that it can continue to help keep children safe and families intact around our Nation. We should continue to do everything we can to protect our children and I thank my friends on both sides of the aisle for joining me in this effort.

Mr. REID. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2517) was ordered to a third reading, was read the third time, and passed.

KIDS ACT OF 2007

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 706, S. 431.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 431) to require convicted sex offenders to register online identifiers, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Keeping the Internet Devoid of Sexual Predators Act of 2007" or the "KIDS Act of 2007".

**SEC. 2. REGISTRATION OF ONLINE IDENTIFIERS OF SEX OFFENDERS.**

(a) IN GENERAL.—Section 114(a) of the Sex Offender Registration and Notification Act (42 U.S.C. 16914(a)) is amended—

(1) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(2) by inserting after paragraph (3) the following:

["(4) Any electronic mail address, instant message address, or other similar Internet identifier the sex offender used or will use to communicate over the Internet.】

“(4) Any electronic mail address, instant message address, or other designation the sex offender uses or will use for self-identification or routing in an Internet communication or posting.”

(b) UPDATING OF INFORMATION.—Section 113(c) of the Sex Offender Registration and Notification Act (42 U.S.C. 16913(c)) is amended by inserting “and before any use of an electronic mail address, instant message address, [or other similar Internet identifier not provided under subsection (b) by the sex offender to communicate over the Internet,] or other designation used for self-identification or routing in an Internet communication or posting that is not included in the sex offender’s registration information,” after “or student status.”

(c) FAILURE TO REGISTER ONLINE IDENTIFIERS.—Section 2250 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting “or (d)” after “subsection (a)”; and

(2) by adding at the end the following:

“(d) *Knowing*. Failure To Register Online Identifiers.—

“(1) IN GENERAL.—It shall be unlawful for any person who is required to register under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.) to knowingly fail to provide an electronic mail [address, instant message address, or other similar Internet identifier used by that person to communicate over the Internet] address, instant message address, or other designation used for self-identification or routing in an Internet communication or posting to the appropriate official for inclusion in the sex offender registry, as required under that Act.

“(2) PENALTY.—Any person who violates paragraph (1) shall be fined under this title, imprisoned not more than 10 years, or both.”

(d) CONFORMING AMENDMENT; DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—Section 141(b) of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248; 120 Stat. 602) is amended by striking “offense specified in subsection (a)” and inserting “offenses specified in subsections (a) and (d) of section 2250 of title 18, United States Code”.

### SEC. 3. RELEASE OF ELECTRONIC MAIL ADDRESSES, INSTANT MESSAGE ADDRESSES, OR OTHER SIMILAR INTERNET IDENTIFIERS.

(a) PUBLIC ACCESS.—Section 118(b) of the Sex Offender Registration and Notification Act (42 U.S.C. 16918(b)) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

“(4) any electronic mail address, instant message address, or other similar Internet identifier used by the sex offender; and”.

(b) NATIONAL REGISTRY.—Section 119 of the Sex Offender Registration and Notification Act (42 U.S.C. 16919) is amended by adding at the end the following:

“(c) RELEASE OF ELECTRONIC MAIL ADDRESSES, INSTANT MESSAGE ADDRESSES, OR OTHER SIMILAR INTERNET IDENTIFIERS TO COMMERCIAL SOCIAL NETWORKING WEBSITE.—

“(1) IN GENERAL.—The Attorney General shall maintain a system allowing a commercial social networking website to compare the database of registered users of that commercial social networking website to the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry.

“(2) PROCESS FOR RELEASE OF ELECTRONIC MAIL ADDRESSES, INSTANT MESSAGE ADDRESSES, OR OTHER SIMILAR INTERNET IDENTIFIERS.—A commercial social networking

website desiring to compare its database of registered users to the list of electronic mail addresses, instant messages, and other similar Internet identifiers of persons in the National Sex Offender Registry shall provide to the Attorney General—

“(A) the name, address, and telephone number of the commercial social networking website;

“(B) the specific legal nature and corporate status of the commercial social networking website;

“(C) an affirmation signed by the chief legal officer of the commercial social networking website that the information obtained from that database shall not be disclosed for any purpose other than for comparing the database of registered users of that commercial social networking website against the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry to protect [children] individuals from online sexual predators and that disclosure of this information for purposes other than those under this section may be unlawful; and

“(D) the name, address, and telephone number of a natural person who consents to service of process for the commercial social networking website.

“(3) USE OF DATABASE.—After a commercial social networking website has complied with paragraph (2) and paid any fee established by the Attorney General, the commercial social networking website may screen new users or compare its database of registered users to the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry as frequently as the Attorney General may allow for the purpose of identifying a registered user associated with an electronic mail address, instant message address, or other similar Internet identifier contained in the National Sex Offender Registry.

“(4) LIABILITY RELIEF FOR SOCIAL NETWORKING SITES USING THE REGISTRY INFORMATION TO PROTECT USERS.—

“(A) IN GENERAL.—If a commercial social networking website complies with this section, a covered civil action against that commercial social networking website or any director, officer, employee, or agent of that commercial social networking website may not be brought in any Federal or State court.

“(B) DEFINITION.—In this paragraph, the term ‘covered civil action’ means a civil action relating to the use of the information in the National Sex Offender Registry by a commercial social networking website to screen users or compare its database of registered users for the purpose of identifying a registered user associated with an electronic mail address, instant message address, or other similar Internet identifier information contained in the National Sex Offender Registry.

“(5) INTERIM PERIOD.—In any interim period before the National Sex Offender Registry is implemented, any commercial social networking website shall have access to the electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons required to register in a jurisdiction’s sex offender registry through the methods set forth in paragraphs (2) and (3). Until such time as the National Sex Offender Registry is implemented, the term ‘Attorney General’ shall be replaced with ‘the jurisdiction’ and the term ‘the National Sex Offender Registry’ shall be replaced with ‘a jurisdiction’s sex offender registry’ in paragraphs (2) and (3).”

“(4) LIMITATION ON RELEASE OF INTERNET IDENTIFIERS.—Except as explicitly provided for

in this section or for a necessary law enforcement purpose, the Attorney General may not authorize the release or dissemination of any Internet identifier contained in the National Sex Offender Registry.

“(5) LIMITATION ON LIABILITY.—

“(A) IN GENERAL.—A civil claim against a commercial social networking website, including any director, officer, employee, or agent of that commercial social networking website, arising from the use by such website of the National Sex Offender Registry, may not be brought in any Federal or State court.

“(B) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim if the commercial social networking website, or a director, officer, employee, or agent of that commercial social networking website—

“(i) engaged in intentional misconduct; or

“(ii) acted, or failed to act—

“(I) with actual malice;

“(II) with reckless disregard to a substantial risk of causing injury without legal justification; or

“(III) for a purpose unrelated to the performance of any responsibility or function described in paragraph (3).

“(C) ORDINARY BUSINESS ACTIVITIES.—Subsection (a) shall not apply to an act or omission to act relating to an ordinary business activity of any commercial social networking website, including to any acts related to the general administration or operations of such website, the use of motor vehicles by employees or agents of such website, or any personnel management decisions of such websites.

“(D) MINIMIZING ACCESS.—A commercial social networking website shall minimize the number of employees that are provided access to the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry.

“(6) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require any Internet website, including a commercial social networking website, to compare its database of registered users with the list of electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons in the National Sex Offender Registry, and no Federal or State liability, or any other actionable adverse consequence, shall be imposed on such website based on its decision not to compare its database with such list.”

### SEC. 4. DEFINITIONS.

Section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911) [is amended—

“(1) in paragraph (7)(H), by striking the period and inserting the following: ‘, except that it shall not be necessary to show that the sexual conduct actually occurred or to offer proof that the defendant engaged in an act, other than use of the Internet to facilitate criminal sexual conduct involving a minor.’; and

“(2) by adding at the end the following:] is amended by adding at the end the following:

“(15) The term ‘commercial social networking website’ means a commercially operated Internet website that—

“(A) allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users; and

“(A) allows users, through the creation of web pages or profiles or by other means, to provide information about themselves that is available publicly or to other users; and

“(B) offers a mechanism for communication with other users, such as a forum, chat room, electronic mail, or instant messenger.

“(16) The term ‘chat room’ means any Internet website through which a number of users can communicate in real time via text and that allows messages to be almost immediately visible to all other users or to a designated segment of all other users.]

“(16) The term ‘chat room’ means any Internet service through which a number of users can communicate in real time so that communications are almost immediately available to all other users or to a designated segment of all other users.

“(17) The term ‘Internet’ has the meaning given that term in section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

“(18) The term ‘electronic mail address’ has the meaning given that term in section 3 of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (15 U.S.C. 7702).

“(19) The term ‘instant message address’ means an identifier that allows a person to [communication] communicate in real-time with another person using the Internet.”

**SEC. 5.—CRIMINALIZATION OF AGE MISREPRESENTATION IN CONNECTION WITH ONLINE SOLICITATION OF A MINOR.**

Section 2252C of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

“(c) **AGE MISREPRESENTATION.**—Any person 18 years or older who knowingly misrepresents their age with the intent to use the Internet to engage in criminal sexual conduct involving a minor, or to facilitate or attempt such conduct, shall be fined under this title and imprisoned for not more than 20 years. Such penalty shall be in addition to any penalty pursuant to the laws of any jurisdiction for the crime of using the Internet to engage in criminal sexual conduct involving a minor, or to facilitate or attempt such conduct.”

“(c) **AGE OF MISREPRESENTATION.**—Any person 18 years or older who knowingly misrepresents his or her age with the intent to use the Internet, to operate a facility, by mail, or by any other means of interstate or foreign commerce to engage in criminal sexual conduct involving a minor who is at least 4 years younger than the person engaging in such conduct, or to facilitate or attempt such conduct, shall be fined under this title and imprisoned for not more than 20 years. Such penalty shall be in addition to any penalty pursuant to the laws of any jurisdiction for the crime of using the Internet to engage in criminal sexual conduct involving a minor, or to facilitate or attempt such conduct.”

**SEC. 6.—KNOWINGLY ACCESSING CHILD PORNOGRAPHY WITH THE INTENT TO WATCH CHILD PORNOGRAPHY.**

(a) **MATERIALS INVOLVING SEXUAL EXPLOITATION OF MINORS.**—Section 2252(a)(4) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “, or knowingly accesses with intent to view,” after “possesses”; and

(2) in subparagraph (B), by inserting “, or knowingly accesses with intent to view,” after “possesses”.

(b) **MATERIALS CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.**—Section 2252A(a)(5) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “, or knowingly accesses with intent to view,” after “possesses”; and

(2) in subparagraph (B), by inserting “, or knowingly accesses with intent to view,” after “possesses”.

**SEC. 7.—CLARIFYING BAN OF CHILD PORNOGRAPHY.**

(a) **IN GENERAL.**—Chapter 110 of title 18, United States Code, is amended—

(1) in section 2251—

(A) in each of subsections (a), (b), and (d), by inserting “using any means or facility of interstate or foreign commerce or” after “be transported”; and

(B) in each of subsections (a) and (b), by inserting “using any means or facility of inter-

state or foreign commerce or” after “been transported”; and

(C) in subsection (d), by inserting “using any means or facility of interstate or foreign commerce or” after “is transported”; and

(2) in section 2251A(c), by inserting “using any means or facility of interstate or foreign commerce or” after “or transported”; and

(3) in section 2252(a)—

(A) in paragraph (1), by inserting “using any means or facility of interstate or foreign commerce or” after “ships”; and

(B) in paragraph (2)—

(i) by inserting “using any means or facility of interstate or foreign commerce or” after “distributes, any visual depiction”; and

(ii) by inserting “using any means or facility of interstate or foreign commerce or” after “depiction for distribution”; and

(C) in paragraph (4), by inserting “using any means or facility of interstate or foreign commerce or” after “has been shipped or transported”; and

(4) in section 2252A(a)—

(A) in paragraph (1), by inserting “using any means or facility of interstate or foreign commerce or” after “ships”; and

(B) in paragraph (3), by inserting “using any means or facility of interstate or foreign commerce or” after “mails, or” each place it appears;

(C) in each of paragraphs (4) and (5), by inserting “using any means or facility of interstate or foreign commerce or” after “has been mailed, or shipped or transported”; and

(D) in paragraph (6), by inserting “using any means or facility of interstate or foreign commerce or” after “has been mailed, shipped, or transported”.

(b) **AFFECTING INTERSTATE COMMERCE.**—Chapter 110 of title 18, United States Code, is amended in each of sections 2251, 2251A, 2252, and 2252A, by striking “in interstate” each place it appears and inserting “in or affecting interstate”.

(c) **CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.**—Section 2252(a)(3)(B) of title 18, United States Code, is amended by inserting “, shipped, or transported using any means or facility of interstate or foreign commerce” after “that has been mailed”.

(d) **CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.**—Section 2252A(a)(6)(C) of title 18, United States Code, is amended by striking “or by transmitting” and all that follows through “by computer,” and inserting “or any means or facility of interstate or foreign commerce”.

Mr. KYL. Mr. President, I rise to say a few words about final passage of the KIDS Act, S. 431. This bill authorizes procedures for social networking Web sites to check whether a particular email address is registered to a sex offender. The bill also includes provisions that would make it an offense to use the Internet to lure a victim and then sexually assault her, that expand the jurisdictional predicates for the child-porn possession offenses, and that make it an offense to knowingly access child pornography on the Internet with the intent to view child pornography.

Section 7 of the bill, which expands the jurisdictional predicates for offenses relating to child pornography, is of particular interest to me. I offered this proposal as an amendment in the Judiciary Committee after it was informally proposed to me by the Justice Department. The proposal addresses a problem highlighted by *United States v. Schaefer*, 501 F.3d 1197, 10th Circuit 2007,

which dismissed a conviction for receipt and possession of child pornography because the court found that proof that an image traveled over the Internet is not sufficient to prove that the image in question moved in interstate commerce. I understand that this ruling has had a substantial impact on prosecutions pertaining to sexually abusive images of children, particularly in the Tenth Circuit.

In *Schaefer*, the Tenth Circuit found that evidence that an image had traveled through servers in another State could prove that the image moved across State lines. Unfortunately, this conclusion provides little help for Federal prosecutions in the State of Colorado because the largest Internet service provider in Colorado maintains all of its servers in that State. Therefore, in Colorado it is extremely difficult to get the kind of evidence required by the Tenth Circuit’s decision.

It is an irony of the Internet that the more that it grows, the harder that it is to prove that an image of child pornography crossed State lines. As in Colorado, many Internet service providers are setting up server farms across the United States, so it is harder to get the requisite evidence that the images moved through out-of-State servers. Additionally, with the advent of different ways of connecting to the Internet, such as wireless, broadband, and DSL, it can be harder to trace the route that an image took across the Internet. And with certain Internet-based technologies, such as instant messaging and peer-to-peer file sharing, it can be impossible to find out to whom or from where a defendant sent or received an image.

The child pornography statutes were enacted, for the most part, before Internet and cell phone technology existed. At the time the statutes were originally written, there were really only two ways to transport this contraband: by mailing it or by physically carrying it on one’s person. The statutes were drafted accordingly. Now, however, because of technological developments, Federal laws pertaining to sexually abusive images of children simply do not reach all of the crimes they could under the Constitution.

Section 7 of the KIDS Act adds the words “affecting interstate or foreign commerce” and “using a facility or means of interstate or foreign commerce” to the child pornography laws, thereby employing maximum Federal power to proscribe child pornography. The primary advantage of the “facility or means” language is that it accurately reflects how sexually abusive images of children are traded today, which is to say, over the Internet and phone lines. The Supreme Court and courts of appeals have long recognized that the Internet and phones are facilities of interstate commerce, regardless of whether the actual transmission goes across State lines. Finally, the “facility or means” language tracks that in 18 U.S.C. §§ 1470 and 2422(b).

Thus there is already a body of case law to guide the drafting of jury instructions and statutory interpretation.

My second favorite provision in S. 431 is section 6, which makes it a crime to knowingly access child pornography with the intent to view child pornography. This proposal was brought to my attention by my colleague Senator VITTER, who persuaded me to offer it as an amendment in the Judiciary Committee. Like section 7, section 6 adapts our laws to address a new obstacle to child-pornography prosecutions that was created by changes in technology and that is exemplified by a recent court of appeals decision. The Vitter staff also provided me with the following Justice Department testimony, which explains the need for this provision and is worth quoting in full. It is the testimony of Larry Rothenberg, a Deputy Assistant Attorney General in the Justice Department's Office of Legal Policy, before the House Judiciary Committee on October 17 of last year:

18 U.S.C. §§ 2252 and 2252A currently criminalize various activities related to child pornography including transportation, trafficking, and possession. Some courts have narrowly interpreted (incorrectly, in our view) the definition of possession so that a person would not have violated the statute if he, for example, viewed images of child pornography on his computer but did not save them onto his disk drive. Even if, in his computer's "temporary Internet cache," we have a record of his viewing the images, and thus proof that he accessed them on a website, under this narrow interpretation, he would not be guilty of violating the statute if he did not know that his temporary Internet cache automatically saved the images on his computer.

Two recent cases demonstrate the need for these changes. In *United States v. Teal*, No. 1:04-CR-00042-CCB-1 (D. Md., motion to dismiss granted Aug. 13, 2004), the Maryland U.S. Attorney's Office prosecuted Marvin Teal, a former administrative law judge who had prior convictions for sexually abusing children, for possession and attempted possession of child pornography based on his viewing child pornography at a public library in Baltimore, Maryland. Library police officers saw child pornography on the computer Teal was using, arrested him, and printed out the images that could be seen on the computer screen. Because there was no evidence that the defendant had himself downloaded or saved anything, the District Court dismissed the case. We chose not to appeal, given the state of the law and the facts of the case.

In *United States v. Kuchinski*, 469 F.3d 853 (9th Cir. 2006), the Ninth Circuit vacated and remanded the sentence of an offender found with between 15,120 and 19,000 separate images of child pornography on his computer on the basis that he did not know that they were in his Internet cache. The court stated, "There is no question that the child pornography images were found on the computer's hard drive and that Kuchinski possessed the computer itself. Also, there is no doubt that he had accessed the web page that had those images somewhere upon it, whether he actually saw the images or

not. What is in question is whether it makes a difference that, as far as this record shows, Kuchinski had no knowledge of the images that were simply in the cache files. It does." Of course we acknowledge the Ninth Circuit's authority to interpret the law this way. However, we think the court's distinction should not make a difference under the law.

Our proposal [which is identical to Section 6 of the KIDS Act] would correct these anomalies while protecting unsuspecting persons who unintentionally access child pornography from prosecution. Specifically, the bill would amend 18 U.S.C. § 2252(a)(4) and 18 U.S.C. § 2252A(a)(5) to criminalize not only possession of child pornography, but also "knowingly accessing child pornography with the intent to view it." That is, a person would be liable to prosecution if he purposefully clicked on a link with the intent that when the link opened, he would view child pornography. It would therefore be a two-step test that the prosecution would have to satisfy—first, that he purposefully (that is, not accidentally) clicked the link, and, second, he did so with the intent that by clicking on the link child pornography would appear on his computer screen. This test would not be difficult to satisfy in the case of people who really did want to view child pornography. Extrinsic evidence—such as the name of the link, which would probably have terms indicating that it displayed child pornography, and payment for the images—would be used to prove the violation. But in the case of an "innocent viewer" who accidentally came across child pornography, the two-step proof would be his protection.

I would also like to express my appreciation to the sponsors of this bill for their willingness to work with the Justice Department to address technical concerns with the bill. It is particularly important that the bill has been modified to minimize conflict with the Justice Department's forthcoming guidelines for implementation of SORNA, which serve many of the same ends as the bill. Earlier versions of the KIDS Act used terminology inconsistent with that used in SORNA, unnecessarily required that sex offenders appear in person to report their e-mail addresses, did not clearly provide the Attorney General with discretion to screen out ill-intentioned users of the checking system, limited access to the checking system to only commercial websites, and unnecessarily restricted to only the SORNA database the sources on which the checking system may rely for Internet addresses. I am pleased to report that all of these problems will be corrected in the floor amendment for the bill. While these issues may seem like technicalities, had they not been addressed they would have degraded the utility of the checking system.

The committee-reported bill also appeared to limit existing programs for

helping law enforcement and parents to determine whether the individual using a particular address is a sex offender. The final Senate bill includes a rule of construction that makes clear that the bill does not limit the Attorney General's preexisting authority to allow such searches. The final bill also includes a compromise on how the Attorney General and social networking Web sites may disseminate sex-offender e-mail addresses. The compromise is somewhat complicated and merits explanation. The bill still does bar the wholesale distribution to the general public of sex offenders' e-mail information contained in the system, and further requires that the AG limit how the social networking sites disseminate the information about individual offenders that such sites receive. I understand that some Senators expressed concern that such bulk distribution of offenders' e-mail addresses would make it possible for malicious individuals to identify individual offenders' e-mail addresses and use those addresses to harass an offender. Preventing the publication of lists of offenders' e-mail addresses also will prevent offenders from using the checking system to identify each other's e-mail addresses and communicate with each other. We should not allow the system's information about sex offenders' e-mail addresses to be used in this way. The bill creates a two-tiered limit on distribution of these e-mail addresses in proposed SORNA section 121(d)(4)(A) and (B). Subparagraph (A) bars bulk distribution of offenders' addresses contained in the system to the public at large, and subparagraph (B) further requires the AG to limit how social networking sites disseminate the information that they receive. Subparagraph (A) bars both the AG and the participating social-networking sites from disseminating lists of sex-offender e-mail information that are generated through the operation of the checking system unless the information is only given to a limited set of sources with a particular need for the information, as opposed to the public at large. It does not limit dissemination of information generated from other sources, but should substantially prevent the creation of bulk public lists of sex-offender e-mail information as a result of the operation of the checking system. Subparagraph (B) complements this provision by requiring the AG to regulate how participating social networking sites use the information that they receive. It is likely that some social-networking sites will come into possession of large amounts of sex-offender e-mail information as a result of their participation in this system. It is thus important that the AG see to it that those sites do not liberally disseminate such information in a way that would allow others to create bulk public lists of sex offenders' e-mail information. Although subparagraph (B) contains no specific mandate to the AG, I trust that he will apply this provision with this purpose in mind.

In addition, I would like to address two urgently-needed reforms to our Nation's child pornography laws that are not included in this bill, but that I hope to amend onto future legislation. We need tougher, mandatory penalties for possession of child pornography, and Congress needs to act to stiffen and expand penalties for electronic-communication service providers who fail to report the presence of child pornography on their systems. The case for both of these provisions is made in the Rothenberg testimony noted above, and I quote it in full:

[W]e urge Congress to establish a mandatory minimum sentence for possession of child pornography. This is crucial because too many people believe that child pornography is "just pictures" and is not "a big deal." That is wrong. Each pornographic image of a child is the visual record of the sexual exploitation of that child. It is not just a picture. Every time that image is viewed, the child is violated once again. Moreover, the demand for such images is what fuels the physical violation of the children in these images in the first place. Possession of child pornography is victimization of a child and should be punished accordingly.

Unfortunately, since the Federal Sentencing Guidelines became advisory under the Supreme Court's decision in *United States v. Booker* the number of downward departures by judges in federal child pornography possession cases has increased. After enactment of the PROTECT Act of 2003, which restricted in various ways the authority of courts to make non-government-sponsored downward departures in sentences, the rate of non-government-sponsored below-range sentences for all offense types was about 5 percent. See United States Sentencing Commission, Final Report on the Impact of *United States v. Booker* on Federal Sentencing (March 2006), at p. 54, available at [http://www.ussc.gov/booker\\_report/Booker\\_Report.pdf](http://www.ussc.gov/booker_report/Booker_Report.pdf). Following *Booker*, that rate jumped up to 12.5 percent. *Id.* at p. 47. For child pornography possession offenses, however, the rate of non-government-sponsored below-range sentences leapt to 26.3 percent, more than twice the average rate. *Id.* at p. 122. By way of comparison, for drug trafficking and firearms violations, the rate has increased to 12.8 percent and 15.2 percent, respectively, much closer to the average. *Id.* at table on page D-5.

The increase in non-government-sponsored, below-range sentences for possession offenses after *Booker* demonstrates the need for a mandatory minimum sentence for possession offenses. Establishing a two-year minimum sentence will be a warning to potential consumers of child pornography, prevent unwarranted downward departures, and forcefully express our revulsion at this type of material. This change is contained in section 201 of the Department's Violent Crime and Anti-Terrorism Act of 2007 and is included as section 201 of H.R. 3156, the Violent Crime Control Act of 2007.

Our second proposal would amend an existing law that requires certain providers of electronic communications services to report violations of the child pornography laws. Currently the law provides that a provider who knowingly and willfully fails to report the presence of child pornography images on its computer servers shall be subject to a criminal fine of up to \$50,000 for the initial failure to report and \$100,000 for each subsequent failure to report. Prosecutors and law enforcement sources report that this

criminal provision has been virtually impossible to enforce because of the particular *mens rea* requirement and the low amount of the potential penalty. These impediments severely hinder the needed crackdown on the presence of child pornography on the Internet.

Our legislation would triple the criminal fines available for knowing and willful failures to report, making the available fines \$150,000 for the initial violation and \$300,000 for each subsequent violation.

Even more importantly, the legislation would add civil fines for negligent failure to report a child pornography offense. The civil penalty is set at \$50,000 for the initial violation and \$100,000 for each subsequent violation. The Federal Communications Commission would be provided with the authority to levy the civil fines under this section and to promulgate the necessary regulations, in consultation with the Attorney General, for imposing the fines and for providing an appropriate administrative review process.

These proposals would make it much more likely that service providers will exercise sound practices for weeding out child pornography. The images are out there, too often on commercial computer servers, and law enforcement needs to know about them to investigate and to prosecute the sexual predators who consume them. This amendment is contained in section 202 of the Department's Violent Crime and Anti-Terrorism Act of 2007 and in section 202 of H.R. 3156.

Finally, I would like to thank Preet Bharara and Lee Dunn, staffers to Senators SCHUMER and MCCAIN, respectively, who have worked tirelessly to see this bill through the Senate. S. 431 is a good bill, and I hope to see it enacted into law.

MR. REID. I ask unanimous consent a Schumer amendment which is at the desk be agreed to, the committee amendments, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4798) was agreed to.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendments, as amended, were agreed to.

The bill (S. 431), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 431

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Keeping the Internet Devoid of Sexual Predators Act of 2008" or the "KIDS Act of 2008".

#### SEC. 2. REGISTRATION OF ONLINE IDENTIFIERS OF SEX OFFENDERS.

(a) IN GENERAL.—Section 114(a) of the Sex Offender Registration and Notification Act (42 U.S.C. 16914(a)) is amended—

(1) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(2) by inserting after paragraph (3) the following:

"(4) Any electronic mail address or other designation the sex offender uses or will use

for self-identification or routing in Internet communication or posting."

(b) UPDATING OF INFORMATION.—Section 113(c) of the Sex Offender Registration and Notification Act (42 U.S.C. 16913(c)) is amended by adding at the end the following: "The Attorney General shall have the authority to specify the time and manner for reporting of other changes in registration information, including any addition or change of an electronic mail address or other designation used for self-identification or routing in Internet communication or posting."

(c) FAILURE TO REGISTER ONLINE IDENTIFIERS.—Section 2250 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting "or (d)" after "subsection (a)"; and

(2) by adding at the end the following: "(d) KNOWING FAILURE TO REGISTER ONLINE IDENTIFIERS.—Whoever—

"(1) is required to register under the Sex Offender Registration and Notification Act (42 U.S.C. 16901 et seq.); and

"(2) uses an email address or any other designation used for self-identification or routing in Internet communication or posting which the individual knowingly failed to provide for inclusion in a sex offender registry as required under that Act; shall be fined under this title or imprisoned not more than 10 years, or both."

(d) CONFORMING AMENDMENT; DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—Section 141(b) of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248; 120 Stat. 602) is amended by striking "offense specified in subsection (a)" and inserting "offenses specified in subsections (a) and (d) of section 2250 of title 18, United States Code".

#### SEC. 3. CHECKING OF ONLINE IDENTIFIERS AGAINST SEX OFFENDER REGISTRATION INFORMATION.

(a) PUBLIC ACCESS.—Section 118(b) of the Sex Offender Registration and Notification Act (42 U.S.C. 16918(b)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) any electronic mail address or designation used for self-identification or routing in Internet communication or posting; and"

(b) ONLINE IDENTIFIER CHECKING SYSTEM FOR SOCIAL NETWORKING WEBSITES.—Section 121 of the Sex Offender Registration and Notification Act (42 U.S.C. 16921) is amended by adding at the end the following:

"(d) CHECKING SYSTEM FOR SOCIAL NETWORKING WEBSITES.—

"(1) IN GENERAL.—The Attorney General shall maintain a system available to social networking websites that permits the automated comparison of lists or databases of the electronic mail addresses and other designations used for self-identification or routing in Internet communication or posting of the registered users of such websites, to the corresponding information contained in or derived from sex offender registries.

"(2) QUALIFICATION FOR USE OF SYSTEM.—A social networking website seeking to use the system established under paragraph (1) shall submit an application to the Attorney General which provides—

"(A) the name and legal status of the website;

"(B) the contact information for the website;

"(C) a description of the nature and operations of the website;

"(D) a statement explaining why the website seeks to use the system; and

"(E) such other information or attestations as the Attorney General may require

to ensure that the website will use the system—

“(i) to protect the safety of the users of such website; and

“(ii) not for any unlawful or improper purpose.

“(3) SEARCHES AGAINST THE SYSTEM.—

“(A) IN GENERAL.—A social networking website approved to use the system established under paragraph (1) shall—

“(i) submit the information to be compared in a form satisfying the technical requirements for searches against the system; and

“(ii) pay any fee established by the Attorney General for use of the system.

“(B) FREQUENCY OF USE OF THE SYSTEM.—A social networking website approved by the Attorney General to use the system established under paragraph (1) may conduct searches under the system as frequently as the Attorney General may allow.

“(C) AUTHORITY OF AG TO SUSPEND USE.—The Attorney General may deny, suspend, or terminate use of the system by a social networking website that—

“(i) provides false information in its application for use of the system; or

“(ii) may be using or seeks to use the system for any unlawful or improper purpose.

“(4) LIMITATION ON RELEASE OF INTERNET IDENTIFIERS.—

“(A) NO PUBLIC RELEASE.—Neither the Attorney General nor a social networking website approved to use the system established under paragraph (1) may release to the public any list of the e-mail addresses or other designations used for self-identification or routing in Internet communication or posting of sex offenders contained in the system.

“(B) ADDITIONAL LIMITATIONS.—The Attorney General shall limit the release of information obtained through the use of the system established under paragraph (1) by social networking websites approved to use such system.

“(C) STRICT ADHERENCE TO LIMITATION.—The use of the system established under paragraph (1) by a social networking website shall be conditioned on the website’s agreement to observe the limitations required under this paragraph.

“(D) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit the authority of the Attorney General under any other provision of law to conduct or to allow searches or checks against sex offender registration information.

“(5) LIMITATION ON LIABILITY.—

“(A) IN GENERAL.—A civil claim against a social networking website, including any director, officer, employee, parent, or agent of that social networking website, arising from the use by such website of the National Sex Offender Registry, may not be brought in any Federal or State court.

“(B) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim if the social networking website, or a director, officer, employee, or agent of that social networking website—

“(i) engaged in intentional misconduct; or

“(ii) acted, or failed to act—

“(I) with actual malice;

“(II) with reckless disregard to a substantial risk of causing injury without legal justification; or

“(III) for a purpose unrelated to the performance of any responsibility or function described in paragraph (3).

“(C) ORDINARY BUSINESS ACTIVITIES.—Subsection (a) shall not apply to an act or omission to act relating to an ordinary business activity of any social networking website, including to any acts related to the general administration or operations of such website, the use of motor vehicles by employees or agents of such website, or any per-

sonnel management decisions of such websites.

“(D) MINIMIZING ACCESS.—A social networking website shall minimize the number of employees that are provided access to the list of electronic mail addresses, and other designations used for self-identification or routing in Internet communication or posting by persons in the National Sex Offender Registry.

“(6) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require any Internet website, including a social networking website, to compare its database of registered users with the list of electronic mail addresses and other designations used for self-identification or routing in Internet communication or posting by persons in the National Sex Offender Registry, and no Federal or State liability, or any other actionable adverse consequence, shall be imposed on such website based on its decision not to compare its database with such list.”

#### SEC. 4. DEFINITIONS.

Section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911) is amended by adding at the end the following:

“(15) The term ‘social networking website’ means an Internet website that—

“(A) allows users, through the creation of web pages or profiles or by other means, to provide information about themselves that is available publicly or to other users; and

“(B) offers a mechanism for communication with other users.

“(16) The term ‘Internet’ has the meaning given that term in section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

“(17) The term ‘electronic mail address’ has the meaning given that term in section 3 of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (15 U.S.C. 7702).”

#### SEC. 5. CRIMINALIZATION OF AGE MISREPRESENTATION IN CONNECTION WITH ONLINE SOLICITATION OF A MINOR.

Section 2422 of title 18, United States Code, is amended by adding at the end the following:

“(c) MISREPRESENTATION OF AGE.—Whoever knowingly misrepresents his or her age using the Internet or any other facility or means of interstate or foreign commerce or the mail, with the intent to further or facilitate a violation of this section, shall be fined under this title and imprisoned not more than 20 years. A sentence imposed under this subsection shall be in addition and consecutive to any sentence imposed for the offense the age misrepresentation was intended to further or facilitate.”

#### SEC. 6. KNOWINGLY ACCESSING CHILD PORNOGRAPHY WITH THE INTENT TO VIEW CHILD PORNOGRAPHY.

(a) MATERIALS INVOLVING SEXUAL EXPLOITATION OF MINORS.—Section 2252(a)(4) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “, or knowingly accesses with intent to view,” after “possesses”; and

(2) in subparagraph (B), by inserting “, or knowingly accesses with intent to view,” after “possesses”.

(b) MATERIALS CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(a)(5) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “, or knowingly accesses with intent to view,” after “possesses”; and

(2) in subparagraph (B), by inserting “, or knowingly accesses with intent to view,” after “possesses”.

#### SEC. 7. CLARIFYING BAN OF CHILD PORNOGRAPHY.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended—

(1) in section 2251—

(A) in each of subsections (a), (b), and (d), by inserting “using any means or facility of interstate or foreign commerce or” after “be transported”;

(B) in each of subsections (a) and (b), by inserting “using any means or facility of interstate or foreign commerce or” after “been transported”;

(C) in subsection (c), by striking “computer” each place that term appears and inserting “using any means or facility of interstate or foreign commerce”; and

(D) in subsection (d), by inserting “using any means or facility of interstate or foreign commerce or” after “is transported”;

(2) in section 2251A(c), by inserting “using any means or facility of interstate or foreign commerce or” after “or transported”;

(3) in section 2252(a)—

(A) in paragraph (1), by inserting “using any means or facility of interstate or foreign commerce or” after “ships”;

(B) in paragraph (2)—

(i) by inserting “using any means or facility of interstate or foreign commerce or” after “distributes, any visual depiction”; and

(ii) by inserting “using any means or facility of interstate or foreign commerce or” after “depiction for distribution”;

(C) in paragraph (3)—

(i) by inserting “using any means or facility of interstate or foreign commerce” after “so shipped or transported”; and

(ii) by striking “by any means.”; and

(D) in paragraph (4), by inserting “using any means or facility of interstate or foreign commerce or” after “has been shipped or transported”; and

(4) in section 2252A(a)—

(A) in paragraph (1), by inserting “using any means or facility of interstate or foreign commerce or” after “ships”;

(B) in paragraph (2), by inserting “using any means or facility of interstate or foreign commerce” after “mailed, or” each place it appears;

(C) in paragraph (3), by inserting “using any means or facility of interstate or foreign commerce or” after “mails, or” each place it appears;

(D) in each of paragraphs (4) and (5), by inserting “using any means or facility of interstate or foreign commerce or” after “has been mailed, or shipped or transported”; and

(E) in paragraph (6), by inserting “using any means or facility of interstate or foreign commerce or” after “has been mailed, shipped, or transported”.

(b) AFFECTING INTERSTATE COMMERCE.—Chapter 110 of title 18, United States Code, is amended in each of sections 2251, 2251A, 2252, and 2252A, by striking “in interstate” each place it appears and inserting “in or affecting interstate”.

(c) CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252(a)(3)(B) of title 18, United States Code, is amended by inserting “, shipped, or transported using any means or facility of interstate or foreign commerce” after “that has been mailed”.

(d) CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A(a)(6)(C) of title 18, United States Code, is amended by striking “or by transmitting” and all that follows through “by computer,” and inserting “or any means or facility of interstate or foreign commerce.”

#### RECOGNIZING THE 100TH BIRTHDAY OF LYNDON BAINES JOHNSON

Mr. REID. I ask unanimous consent that the Senate now proceed to S. Res. 571.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 571) recognizing the 100th birthday of Lyndon Baines Johnson, 36th President, designer of the Great Society, politician, educator, and civil rights enforcer.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to; the preamble be agreed to; the motions to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 571) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 571

Whereas August 27, 2008, marks the 100th birthday of Lyndon Baines Johnson;

Whereas Lyndon B. Johnson was born in Stonewall, Texas, to Samuel Ealy Johnson, Jr., a Texas representative, and Rebekah Baines, on August 27, 1908;

Whereas upon graduation, Lyndon B. Johnson enrolled in Southwest Texas State Teachers' College, where he vigorously participated in debate, campus politics, and edited the school newspaper;

Whereas Lyndon B. Johnson had several teaching positions throughout Texas, including at the Welhausen School in La Salle County, at Pearsall High School, and as a public speaking teacher at Sam Houston High School in Houston;

Whereas Lyndon B. Johnson went to work as a congressional assistant at the age of 23;

Whereas Lyndon B. Johnson served the 10th Congressional District in the Texas House of Representatives from April 10, 1937, to January 3, 1949;

Whereas Lyndon B. Johnson became a commissioned officer in the Navy Reserve in December 1941;

Whereas, during World War II, Lyndon B. Johnson was recommended by Undersecretary of the Navy James Forrestal to President Franklin D. Roosevelt, who assigned Johnson to a 3-man survey team in the southwest Pacific;

Whereas Lyndon B. Johnson was conferred the Silver Star, which is the military's 3rd highest medal, by General Douglas MacArthur;

Whereas, in 1948, Lyndon B. Johnson was elected to the Senate at the age of 41;

Whereas, in 1951, Lyndon B. Johnson was elected Senate minority leader at the age of 44, and elected Senate majority leader at the age of 46, the youngest in United States history;

Whereas Lyndon B. Johnson was elected Vice President at the age of 52, becoming president of the Senate;

Whereas Lyndon B. Johnson's congressional career and his leadership spanned the stock market crash, the Great Depression, World War II, the nuclear age, the Cold War, the space age, and the civil rights movement, some of the most turbulent years in American history;

Whereas Vice President Lyndon B. Johnson was appointed as head of the President's Committee on Equal Employment Opportunities, through which he worked with African-Americans and other minorities;

Whereas an hour and 38 minutes after the assassination of President Kennedy, Lyndon

B. Johnson was sworn in as President aboard Air Force One;

Whereas Lyndon B. Johnson was a bold leader and an idealist, who had the energy, determination, and leadership to turn those dreams into reality;

Whereas Lyndon B. Johnson was a "can-do" President because no matter how difficult and daunting the task at hand, he never rested until it was completed;

Whereas, in 1964, at the request of the Johnson Administration, Congress passed the landmark Civil Rights Act of 1964, which banned de jure segregation in the Nation's schools and public places;

Whereas Congress passed by request of the Johnson Administration the Voting Rights Act of 1965, which outlawed obstructive provisions that were determined to be impractical and potentially biased against prospective voters;

Whereas, in January of 1965, the Johnson Administration introduced by request the legislation that encompassed the Great Society programs;

Whereas, in 1967, President Johnson nominated Thurgood Marshall as the 1st African-American to serve on the Supreme Court;

Whereas, during President Johnson's time in office, the National Aeronautics and Space Administration made spectacular steps forward in space exploration when 3 astronauts successfully orbited the moon in December 1968;

Whereas Lyndon B. Johnson died at 4:33 p.m. on January 22, 1973, at his ranch in Johnson City, Texas, at the age of 64;

Whereas Lyndon B. Johnson was posthumously awarded the Presidential Medal of Freedom in 1980; and

Whereas Lyndon B. Johnson is honored, venerated, and revered for his drive to establish equality for all Americans, illustrated in the momentous legislation passed during his Administration: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors Lyndon B. Johnson for his fortitude in bringing about the passage of the historic Civil Rights Act of 1964 and Voting Rights Act of 1965;

(2) extols the contributions of Lyndon B. Johnson to the United States;

(3) commends Lyndon B. Johnson for establishing the Medicare Act of 1965 that has helped millions of Americans; and

(4) recognizes the 100th birthday of Lyndon Baines Johnson, the 36th President, designer of the Great Society, politician, educator, and civil rights enforcer.

RECOGNIZING THE 100TH BIRTHDAY OF LYNDON BAINES JOHNSON

Mr. REID. I ask unanimous consent that we now look at the Judiciary Committee and discharge that committee from further consideration of H. Con. Res. 354.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 354) recognizing the 100th birthday of Lyndon Baines Johnson, 36th President, designer of the Great Society, politician, educator, and civil rights enforcer.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be

agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 354) was agreed to.

The preamble was agreed to.

CONGRATULATING FOCUS: HOPE

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate proceed to S. Con. Res. 79.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 79) congratulating and saluting Focus: HOPE on its 40th anniversary and for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 79) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 79

Whereas Focus: HOPE began as a civil and human rights organization in 1968 in the wake of the devastating Detroit riots, and was cofounded by the late Father William T. Cunningham, a Roman Catholic priest, and Eleanor M. Josaitis, a suburban housewife, who were inspired by the work of Dr. Martin Luther King, Jr.;

Whereas Focus: HOPE is committed to bringing together people of all races, faiths, and economic backgrounds to overcome injustice and build racial harmony, and it has grown into one of the largest nonprofit organizations in Michigan;

Whereas the Focus: HOPE mission statement reads, "Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty and injustice. And to build a metropolitan community where all people may live in freedom, harmony, trust, and affection. Black and white, yellow, brown and red, from Detroit and its suburbs of every economic status, national origin and religious persuasion we join in this movement.";

Whereas one of Focus: HOPE's early efforts was to support African-American and female employees in a seminal class action suit against the American Automobile Association (AAA), resulting in groundbreaking affirmative action commitments made by AAA;

Whereas Focus: HOPE helped to conceive and develop the Department of Agriculture's

Commodity Supplemental Food Program, which has been replicated in more than 32 States, and through this program, Focus: HOPE helps to feed approximately 41,000 people per month throughout southeast Michigan;

Whereas Focus: HOPE has revitalized several city blocks in central Detroit by redeveloping obsolete industrial buildings, beautifying and landscaping Oakman Boulevard, creating pocket parks, and rehabilitating homes in the surrounding areas;

Whereas, since 1981, Focus: HOPE's Machinist Training Institute has been training individuals from Detroit and surrounding areas in careers in advanced manufacturing and precision machining and has produced nearly 2,300 certified graduates, providing an opportunity for minority youth, women, and others who are often underrepresented in such careers to gain access to the financial mainstream and learn in-demand skills;

Whereas Focus: HOPE has recognized that manufacturing and information technologies are key to the economic growth and security of Michigan and the United States, and is committed to designing programs to encourage the participation of underrepresented urban individuals in those critical sectors;

Whereas, in 1982, Focus: HOPE initiated a for-profit subsidiary for community economic development purposes and is now designated with Federal HUBZone status (as defined in section 3(p) of the Small Business Act (15 U.S.C. 632(p)));

Whereas Focus: HOPE created Fast Track, a pioneering skill-enhancing program designed to help individuals improve their reading and math competencies by a minimum of 2 grade levels in 4 to 7 weeks;

Whereas Focus: HOPE's training and education programs have moved more than 9,600 individuals out into the workforce since the inception of those programs and have job placement rates significantly above the national average;

Whereas, in 1987, Focus: HOPE reclaimed and renovated an abandoned building and opened it as the Focus: HOPE Center for Children, which now has served nearly 6,000 children of colleagues, students, and neighbors with quality child care, including latchkey, summer camp, early childhood education, and other educational services;

Whereas Focus: HOPE, through an unprecedented cooperative agreement between the Departments of Defense, Commerce, Education, and Labor, established a national demonstration project, the Center for Advanced Technologies, which integrates hands-on manufacturing training and academic learning and educates advanced manufacturing engineers and technologists at internationally competitive levels;

Whereas Focus: HOPE partnered with 5 universities and 6 industry partners, formerly known as the Greenfield Coalition, to design a unique 21st century curriculum that resulted in students receiving associate's degrees in manufacturing technologies from Lawrence Technological University, or bachelor's degrees in engineering technology or manufacturing engineering from Wayne State University or the University of Detroit Mercy, respectively;

Whereas, due to the unique educational pedagogy at Focus: HOPE's Center for Advanced Technologies, the starting salary of its graduates is higher than the national average of graduates with the same degree from other universities;

Whereas Focus: HOPE has made outstanding contributions in increasing diversity within the traditionally homogenous science, math, engineering, and technology fields, 95 percent of currently enrolled degree candidates are African-American, and the Center for Advanced Technologies is one of

the top programs in the United States for graduating minorities with bachelor's degrees in manufacturing engineering;

Whereas Focus: HOPE's unique partnership with the Department of Defense has resulted in several research and development projects, including a nationally recognized demonstration project, the Mobile Parts Hospital, whose Rapid Manufacturing System has been deployed to Kuwait in support of the Armed Forces' operations in Afghanistan, Kuwait, and Iraq;

Whereas, in 1995, Focus: HOPE began a community arts program to present multi-cultural arts programming and gallery exhibitions designated to educate and encourage area residents, while fostering integration in a culturally diverse metropolitan community, and more than 70,000 people have viewed sponsored exhibits or participated in the program;

Whereas, in 1999, Focus: HOPE established an Informational Technologies Center to provide Detroit students with industry-certified training programs in network administration, network installation, and desktop and server administration, and has graduated nearly 800 students, and initiated, in collaboration with industry and academia, the design of a new bachelor's degree program to educate information management systems engineers;

Whereas, in 2006, the State of Michigan designated Focus: HOPE's campus and the surrounding community a "Cool Cities" neighborhood;

Whereas the Secretary of Labor presented Focus: HOPE with an Exemplary Public Interest Contribution Award in recognition of its success in opening employment opportunities for minorities and women;

Whereas the Village of Oakman Manor, a 55-unit senior citizen apartment building sponsored by the Presbyterian Village of Michigan in collaboration with Focus: HOPE, opened in 2006 near the Focus: HOPE campus as the first new construction in the area in more than 50 years;

Whereas Focus: HOPE's initiatives and programs have been nationally recognized for excellence and leadership by such entities as the Government Accountability Office, the Department of Labor, the International Standards Organization, the National Science Foundation, the Cisco Networking Academy Program, Fortune magazine, Forbes magazine, and the Aspen Institute;

Whereas former Presidents George H.W. Bush and William Jefferson Clinton have visited Focus: HOPE's campus;

Whereas Focus: HOPE's cofounder Eleanor M. Josaitis received honorary degrees from 13 outstanding universities and colleges, was named one of the 100 Most Influential Women in 2002 by Crain's Detroit Business, was inducted into the Michigan Women's Hall of Fame, received the Detroit NAACP Presidential Award, the Arab American Institute Foundation's Kahlil Gibran Spirit of Humanity Award, the Michigan Chamber of Commerce Award for Distinguished Service and Leadership, and the Dr. Charles H. Wright Award for Excellence in Community Activism, the Caring Institute's National Caring Award, and the Clara Barton Ambassador Award from the American Red Cross, as well as many other awards;

Whereas, through generous partnerships with and the support of individuals from all walks of life, the Federal, State, and local governments, and foundations and corporations across the United States, the vision of Focus: HOPE will continue to grow and inspire;

Whereas Focus: HOPE has been fortunate enough to have an active board of directors and advisory board from the most senior lev-

els of corporations and public entities in the United States and has benefitted from thousands of volunteers and supporters;

Whereas Focus: HOPE has been a tremendous force for good in the city of Detroit, the State of Michigan, and in the United States for the past 40 years;

Whereas Focus: HOPE continues to strive to eliminate racism, poverty, and injustice through the use of passion, persistence, and partnerships, and continues to seek improvements in its quality of service and program operations; and

Whereas Focus: HOPE and its colleagues will continue to identify ways in which it can lead Detroit, the State of Michigan, and the United States into the future with creative urban leadership initiatives: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) congratulates and salutes Focus: HOPE for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Focus: HOPE for appropriate display.

#### MEASURES READ THE FIRST TIME—S. 3036 AND S. 3044

Mr. REID. I understand there are two bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title:

The legislative clerk read as follows:

A bill (S. 3036) to direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes.

A bill (S. 3044) to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes.

Mr. REID. I now ask for their second reading en bloc and object to my own requests en bloc.

The PRESIDING OFFICER. Objection is heard.

The bills will be read for the second time on the next legislative day.

#### ORDERS FOR WEDNESDAY, MAY 21, 2008

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until tomorrow morning at 9:30 a.m., Wednesday, May 21; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each, with the majority controlling the first 30 minutes and the Republicans controlling the next 30 minutes, and that the time from 11 a.m. until 12 noon be reserved for Senators to make tributes to former President Lyndon B. Johnson in honor of the centennial of his birth, with the time equally divided and controlled between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that we resume the matter we received from the House—the message from the House I filed cloture on just a short time ago, that underlying legislation—that we resume that tomorrow after morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, during the time reserved for the Johnson tributes, Senators will speak in an alternating fashion between the majority and the Republicans. The Senate is expected to resume consideration of the House message—which we just got permission to do—following that.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 8:07 p.m., adjourned until Wednesday, May 21, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF TRANSPORTATION

HUSEIN A. CUMBER, OF FLORIDA, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2013, VICE W. DOUGLAS BUTTREY, TERM EXPIRING.

DEPARTMENT OF STATE

ASIF J. CHAUDHRY, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

TINA S. KAIDANOW, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOSOVO.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE COMMANDER, MARINE FORCE RESERVE AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND 5144:

To be lieutenant general

MAJ. GEN. DOUGLAS M. STONE

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

JOHN L. FRANKLIN
NICOLE M. KICHTA
ROBERT M. MORRISON III
NORMAN C. PETTY

CONFIRMATIONS

Executive nominations confirmed by the Senate Tuesday, May 20, 2008:

DEPARTMENT OF JUSTICE

MICHAEL G. MCGINN, OF MINNESOTA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF FOUR YEARS.

RALPH E. MARTINEZ, OF FLORIDA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2010.

THE JUDICIARY

G. STEVEN AGEE, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

WITHDRAWALS

Executive message transmitted by the President to the Senate on May 20, 2008 withdrawing from further Senate consideration the following nominations:

ARLENE HOLEN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2010, VICE ROBERT H. BEATTY, JR., TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 2007.

HANS VON SPAKOVSKY, OF GEORGIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2011, VICE BRADLEY A. SMITH, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 2007.

A. PAUL ANDERSON, OF FLORIDA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2012, (REAPPOINTMENT), WHICH WAS SENT TO THE SENATE ON AUGUST 2, 2007.